

Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 1. Definitions

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Language	Current Language
Abstraction means permanent retention of runoff on a site through structures and practices such as infiltration, evapotranspiration and capture and reuse. See also the Abstraction Credit Schedule in Appendix A of the Stormwater Management Rule.	Abstraction means permanent retention of runoff on a site through structures and practices such as infiltration, evapotranspiration and capture and reuse. See also the Abstraction Credit Schedule in Appendix A of the Stormwater Management Rule.
	<i>Access Corridor means a corridor equal to 30 percent of the total shoreline length to a maximum of 30 feet.</i>
Agricultural activity means the use of land to produce agronomic, horticultural or silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, forages, cover crops, grains, and Christmas trees, or for grazing.	Agricultural activity means the use of land for the production of agronomic, horticultural or silvicultural crops, including nursery stock, sod, fruits, vegetables, flowers, forages, cover crops, grains, and Christmas trees. Agricultural activity also includes grazing.
Alteration or alter means to change or diminish the course, current, or cross-section of a public water or wetland.	Alteration or alter means any activity that will change or diminish the course, current, or cross-section of public waters and wetlands.
BMP (best management practice) is an action, or a structural or non-structural method, to prevent or limit adverse impact to water resources that is recognized by those proficient in the field as reflecting best present means and methods.	BMPs (best management practices) are actions taken to prevent or reduce detrimental impacts to the environment while maintaining the natural characteristics of the environment.
Bed of a waterbody means that part of a waterbody located below the ordinary high-water level.	Beds of a waterbody means all portions of a waterbody located below the ordinary high- water level.
Bioengineering Practice means the strategic installation of natural, vegetative, biologically active materials in conjunction with toe stabilization, riprap or other hard-armoring materials to stabilize a shoreline or streambank area and associated slopes and prevent erosion.	Bioengineering Stabilization means the strategic installation of natural, vegetative, biologically active materials in conjunction with toe stabilization, riprap or other hard- armoring materials to stabilize shoreline or streambank areas and associated slopes and prevent erosion.
Biological Practice means the strategic placement of natural, vegetation, biologically active materials – such as but not limited to brush mattresses, live stakes/plantings, brush layering, fiber rolls, root wads and willow wattles – to stabilize a shoreline or streambank area and prevent erosion.	Biological Stabilization means the strategic placement of natural, vegetation, biologically active materials – such as but not limited to brush mattresses, live stakes/plantings, brush layering, fiber rolls, root wads and willow wattles – to stabilize shoreline or streambank areas and prevent erosion.
Common plan of development means one proposed plan for a contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.	

Revised Language	Current Language
Design Storm means a storm magnitude with a return period (T) that has the probability (1/T) of being equaled or exceeded in a given year. For example, a “100-year” event at a given location has a chance of 1/100 or 0.01 or 1% of being equaled or exceeded in any given year. For MCWD regulatory purposes, the rainfall depths to be used are as specified in the current NOAA guidance, “NOAA Atlas 14 Precipitation Frequency Estimates.” All rainfall depths are to use the NRCS Type II rainfall distribution.	Design storm refers to a storm magnitude with a return period (T) which has the probability (1/T) of being equaled or exceeded in any given year. For example, a “100- year” event at a given location has a chance of 1/100 or 0.01 or 1% of being equaled or exceeded in any given year. For MCWD regulatory purposes, the rainfall depths to be used are as follows: o 1-year event = 2.4” in 24 hours o 10-year event = 4.1” in 24 hours o 100-year event = 5.9” in 24 hours All rainfall depths shall use the NRCS Type II rainfall distribution.
Development means a land-disturbing activity, other than a Linear Transportation Project, that creates or reconstructs impervious surface.	Development means any land-disturbing activity that creates impervious surface, with the exception of Linear Transportation Projects.
Dredge means to remove sediment or other material from the bed, bank or shore of a waterbody by means of hydraulic suction, mechanical excavation or any other means.	Dredge means the removal of the sediment or other materials from the beds, banks or shores of, a waterbody by means of hydraulic suction, mechanical excavation or any other means.
Excavation means to displace or remove sediment or other material.	Excavation means the displacement or removal of sediment or other material.
Fast Track Permit means a permit for activity that typically presents low risk to water resources and is issued by staff without public notice and on the basis of more limited application submittals.	Fast Track Permit means a permit issued by staff for standard rip rap, sandblankets or maintenance fill projects which are installed according to technical specifications provided by District engineers, or an erosion control permit issued by staff in accordance with the criteria in the Erosion Control Rule.
Fill means a solid material, other than stockpiled temporarily for active use, that alters the cross-section of a waterbody bed or bank, floodplain, or buffer area. For the purpose of the Wetland Protection Rule, “fill” also includes a material as defined at Minnesota Rules 8420.0111, subpart 26.	Fill means any material placed or intended to be placed on the bed or bank of any protected water or wetland. Fill must be clean, inorganic material that is free of pollutants
Floodplain means the area adjoining a watercourse or water basin that is covered by the Regional Flood.	Floodplain means the areas adjoining a watercourse or water basin which have been or hereafter may be covered by a 100-year regional flood.
General Permit means a permit that is deemed issued to an applicant on the applicant’s notice to the District and submittal of an abbreviated set of application materials.	
Impervious means compacted or covered with a layer of material such that it is highly resistant to infiltration of runoff, including but not limited to gravel, rock, asphalt, and non-pervious concrete or paver systems.	Impervious refers to surfaces that are compacted or covered with a layer of material such that it is highly resistant to infiltration of runoff including but not limited to gravel, rock, asphalt, concrete and non-pervious paver systems.
Land-disturbing activity or land disturbance means a disturbance of the ground surface that exposes soil and, through the action of wind or water, may result in soil erosion or the movement of sediment into waters, wetlands or storm sewers or onto adjacent property. Land-disturbing activity includes but is not limited to the demolition of a structure that exposes the surface, soil stripping, clearing, grubbing, grading, excavating, filling, but does not include agricultural activity.	Land-disturbing activity or land disturbance means any disturbance to the ground surface that exposes soil and, through the action of wind or water, may result in soil erosion or the movement of sediment into waters, wetlands or storm sewers or onto adjacent property. Land-disturbing activity includes but is not limited to the demolition of a structure or surface, soil stripping, clearing, grubbing, grading, excavating, filling and the storage of soil or earth materials, but does not include agricultural activity.
	<i>Linear Reconstruction Project means rebuilding a road, sidewalk or trail within existing right-of-way, and may include an increase in the area of impervious surface. Rehabilitation, including mill and overlay, of a road, sidewalk or trail within existing right-of-way in a manner that disturbs and/or replaces only the existing pavement and does not involve the addition of impervious surface area or the exposure of underlying soils is not considered a Linear Reconstruction Project.</i>
Linear Transportation Project means construction of a new road, trail, or sidewalk or reconstruction of an existing road, trail, or sidewalk.	Linear Transportation Project means construction of a new road, trail, or sidewalk or reconstruction of an existing road, trail, or sidewalk (see Linear Reconstruction Project).

Revised Language	Current Language
Management Class means a wetland designation set forth in the MCWD’s Functional Assessment of Wetlands based on the ecological function and vulnerability of the wetland. In order of highest function and vulnerability, management classes are Preserve, Manage 1, Manage 2 and Manage 3.	
Meadow Condition is a modeled event that uses concentration of 0.04 mg/L of Total Phosphorus in runoff in accordance with the Minnesota Pollution Control Agency’s Minnesota Stormwater Manual and the MCWD Hydrologic, Hydraulic, and Pollutant Loading Study (HHPLS). For runoff rates, meadow condition uses curve numbers corresponding to soil and cover types “meadow,” “brush,” or “woods,” as appropriate, provided in Table 2-2c of the Natural Resources Conservation Service’s (NRCS) Technical Release 55 (TR-55).	Meadow Condition shall be modeled using an event mean concentration of 0.04 mg/L of Total Phosphorus in runoff in accordance with the Minnesota Pollution Control Agency’s Minnesota Stormwater Manual and the MCWD Hydrologic, Hydraulic, and Pollutant Loading Study (HHPLS). For runoff rates, meadow condition shall be modeled using curve numbers corresponding to soil and cover types “meadow,” “brush,” or “woods,” as appropriate, provided in Table 2-2c of the Natural Resources Conservation Service’s (NRCS) Technical Release 55 (TR-55).
Native Vegetation means plant species that are indigenous to Minnesota or that expand the range into Minnesota without being intentionally or unintentionally introduced by human activity, and that are classified as native in the Minnesota Plant Encyclopedia, Minnesota Department of Natural Resources, St. Paul, 2002.	Native Vegetation means plant species that are indigenous to Minnesota or that expand the range into Minnesota without being intentionally or unintentionally introduced by human activity and that are classified as native in the Minnesota Plant Database, Minnesota Department of Natural Resources, St. Paul, 2002.
	<i>Natural State refers to a segment of shoreline or streambank displaying essentially no evidence of constructed stabilization or from which constructed stabilization measures have been removed by degradation or deconstruction.</i>
New Principal Residential Structure means a single-family residence constructed on undeveloped property zoned for residential use, or on a property zoned for residential use from which the principal building has been removed to construct a new single-family residence.	New Principal Residential Structure means a single-family residential building constructed on undeveloped property zoned for residential use or on a property zoned for residential use from which the principal building has been removed for purposes of constructing a new single-family residential building.
No-Rise Standard means no increase in the 100-year high water elevation that exceeds modeling error.	
No-Rise Certificate means the “No Rise” certification provided by the Minnesota Department of Natural Resources	
NPDES means the “National Pollutant Discharge Elimination System” program under the federal Clean Water Act.	NPDES refers to Clean Water Act National Pollutant Discharge Elimination System
NURP means Nationwide Urban Runoff Program, as developed by the U.S. Environmental Protection Agency (EPA) to study stormwater runoff from urban development.	NURP means Nationwide Urban Runoff Program developed by the Environmental Protection Agency (EPA) to study stormwater runoff from urban development.
100-year high water elevation means the water elevation reached by the Regional Flood, as determined by, in the order of preference, the most recent municipal, District or FEMA modeling, or by the applicant, in each case subject to the District's concurrence as to modeling adequacy.	100-year high water elevation means the highest water elevation associated with a waterbody reached during a 24-hour precipitation event with a recurrence interval of 100 years, as specified by the District in a written guidance document or, if not so specified, as determined by the District in order to act on a permit application.
Ordinary high water level (OHW) is the elevation of a waterbody that is the highest water level that has existed for a sufficient time to leave evidence on the landscape. It is commonly the elevation where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For a watercourse, the OHW is the elevation of the channel top of bank. For a reservoir or flowage, the OHW is the operating elevation of the normal summer pool.	Ordinary high water level (OHW) means the boundary of a waterbody and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level shall be the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
Person means a natural person, partnership, unincorporated association, corporation, municipal corporation or political subdivision of the State of Minnesota.	Person means any natural person, partnership, unincorporated association, corporation, municipal corporation or political subdivision of the State of Minnesota.
Pervious means readily penetrated or permeated by rainfall or runoff resulting in infiltration and reduced runoff.	Pervious refers to surfaces that are readily penetrated or permeated by rainfall or runoff resulting in infiltration and reduced runoff.
	<i>PID means Property Tax Identification Number and is an abbreviated method to substitute for the legal description for a parcel of property (ex. 03-117-24 33 0004 is Section 3 of Township 117; Range 24; Quarter 33 and Parcel 4).</i>

Revised Language	Current Language
	<i>Preserve Wetland is the highest of four management classifications assigned through use of either the District's Functional Assessment of Wetlands (FAW) or the current version of the Minnesota Routine Assessment Method (MnRAM).</i>
Public water means a water as defined under Minn. Stat.103G.005, subd. 15.	Public waters means all waters identified as public waters under Minn Stat.103G.005, Subd. 15.
Public waters wetland means a wetland defined under Minn. Stat. 103G.005, subd. 18.	Public waters wetlands means all wetlands identified as public waters wetlands under Minn. Stat. 103G.005, Subd. 18.
Reconstructed means that impervious surface has been removed to underlying soil. Activities such as structure renovation, mill and overlay, and other pavement rehabilitation that do not expose underlying soil beneath the structure, pavement, or activity are not considered as reconstructed. Limited impervious surface replacement associated with maintenance activity such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting installation, or pedestrian ramp improvement is not considered to be reconstructed surface.	
	<i>Redevelopment means land-disturbing activity that creates or replaces impervious surface on a parcel that is fully or partially occupied by buildings and/or impervious surface with the exception of Linear Transportation Projects.</i>
Regional flood means the precipitation event, associated with the location, expected to occur with an average frequency of once each 100 years, and the volume and intensity of precipitation associated with that event, as set forth in the regional precipitation data set adopted and maintained by the District.	Regional flood means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.
Residential appurtenance means (a) a driveway, or (b) a structure or surface that throughout the watershed customarily is associated with residential use of a property, and that does not exceed 5,000 square feet of impervious surface.	
Site means a parcel or contiguous parcels of record on which activity subject to a District rule is proposed to occur, as well as any tract contiguous thereto under common ownership. For a Linear Transportation Project within right-of-way that is not of record, the Site is bounded by the longitudinal termini of the proposed activity but includes area outside of the right-of-way designated by the applicant for project purposes.	Parcel or Site means a contiguous area of land under common ownership, designated and described in official public records and separated from other lands. "Parcel" and "site" generally have equivalent meanings for purposes of these rules, and are used interchangeably in rule text. Site - see Parcel
	<i>Shoreline means the ordinary high water level of a water basin and the area waterward thereof.</i>
Stabilization Zone means an area of land parallel to a shoreline or streambank and extending 20 feet inland from the ordinary high-water level.	Stabilization Zone means the area of land paralleling the shoreline or streambank and extending 20 feet inland from all points along the ordinary high-water mark of the shoreline.
Stabilize means to establish a surface condition that, without maintenance, will not be subject to soil erosion or sediment movement.	
Structural Practice is the use of an engineered system – such as riprap, retaining wall, headwall, groin, revetment or gabion – to stabilize a shoreline or streambank area and associated slope.	Structural Stabilization is the use of engineered systems – such as riprap, retaining walls, headwalls, groins, revetments, gabions – to stabilize shoreline or streambank areas and associated slope and prevent erosion.
Subwatershed means one of the fifteen major subwatershed planning units within the District, as identified in the District's watershed management plan.	Subwatershed means one of the fifteen major subwatershed planning units within the Minnehaha Creek Watershed District.
Top of bank means the ordinary high water level for a water basin or wetland, and the break in slope for a watercourse.	Top of bank means the ordinary high water level for a water basin or wetland, and the break in slope for a watercourse.
Waterbasin means an enclosed natural depression with definable banks, capable of containing water, that may be partly filled with water.	Waterbasin means an enclosed natural depression with definable banks capable of containing water which may be partly filled with waters.
Waterbody means a waterbasin, watercourse or wetland as defined in these rules.	Waterbody means all waterbasins, watercourses and wetlands as defined in these rules.

Revised Language	Current Language
<p>Watercourse means a channel with definable beds and banks capable of conducting generally confined runoff from adjacent lands, or any channel included in the District’s inventory of first order streams. A watercourse may be perennial or intermittent. The term does not include a roadside ditch created by excavation or other human construction activity.</p>	<p>Watercourse means any channel having definable beds and banks capable of conducting generally confined runoff from adjacent lands, or any channel included in the District’s inventory of first order streams. During floods water may leave the confining beds and banks but under low and normal flows water is confined within the channel. A watercourse may be perennial or intermittent. Watercourse does not include roadside ditches created by excavation or other human construction activity</p>
	<p><i>Wetland buffer zone means an area of vegetated groundcover abutting or surrounding a wetland.</i></p>
<p>Wetland means a feature identified as a wetland under Minn. Stat. 103G.005, subd 19. The term does not include “public waters wetlands” as defined under Minn. Stat. 103G.005, subd. 15a.</p>	<p>Wetlands means all wetlands identified as wetlands under Minnesota Stat. 103G.005, Subd 19. The term does not include "public waters wetlands" as defined under Minnesota Statutes 103G.005, subdivision 15a.</p>

Side-by-Side Comparison of Proposed and Current MCWD Rules Rule 2. Procedures

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

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Revised Section	Revised Language	Current Section	Current Language
1	<p>APPLICATION REQUIRED. A person undertaking an activity for which a permit is required by these rules must first submit a permit application to the District. The application must include all submittals required by applicable District rules except as District staff, in its judgment, finds unnecessary for a specific application. A permit application must bear the original signature of the landowner, or an electronic signature in accordance with District protocol. Another interested party may sign as a co-applicant, with its interest stated in the application.</p> <p>a. Applicants are encouraged to submit preliminary plans early in the project development process. District staff will provide nonbinding, informal review for conformity with District rules.</p> <p>b. An interested person may intervene in a permit proceeding by filing a written request to intervene with the District before the final decision on the application. The request must state the nature of the person’s interest and a copy must be hand-delivered to the applicant or received at the applicant’s address stated in the application before the time of the final decision. An intervener has the rights of a party in the proceeding before the District.</p> <p>c. A permit applicant consents to entry and inspection of the subject property by the District and its authorized agent at reasonable times as necessary to evaluate the permit application or determine compliance with the requirements of a District permit or rule.</p>	1	<p>APPLICATION REQUIRED. Any person undertaking an activity for which a permit is required by these rules shall first submit a permit application to the District. The application must include all exhibits required by applicable District rules. All permit applications must bear the original signature of the landowner. (Applications signed electronically in accordance with protocols published by the District will be accepted.)</p> <p>(a) Applicants are encouraged to submit preliminary plans early in the project- development process for nonbinding, informal review for conformity with District policies and rules;</p> <p>(b) An interested person may intervene in a permit proceeding by filing a written request to intervene with the District before the final decision on the application. The request shall state the nature of the person’s interest and a copy shall be hand-delivered to the applicant or received at the applicant’s address stated in the application before the time of the final decision. An intervener shall have the rights of a party in the proceeding before the District.</p> <p>(c) A permit applicant consents to entry and inspection of the subject parcel by the District and its authorized agents at reasonable times as necessary to evaluate the permit application or determine compliance with the requirements of a District permit or rule.</p>
2	<p>FORMS. An application for a permit, and for a variance or exception from any District rule, must be submitted on the District form. District forms are available at the Permits section of the District website (www.minnehahacreek.org).</p>	2	<p>FORMS. Only permit applications using the applicable District form(s) will be accepted. A request for a variance or exception from any District rule provision(s) must be submitted on the District variance or exception form. District application forms are available from the Permits section of the District web site (www.minnehahacreek.org). Permit applications sent by mail must be addressed to:</p> <p>Minnehaha Creek Watershed District 15320 Minnetonka Blvd. Deephaven, MN 55345 Attn: Permitting</p>
3	<p>FEES. District permit fees are set forth in the District Permit Fees Rule. A permit application is incomplete and will not be processed by the District until the applicable fee is paid. Failure to timely pay fees is grounds for permit revocation.</p>	3	<p>FEES. District permit fees are set forth in the District Permit Fees Rule. A permit application is incomplete and will not be processed by the District until the applicable fees are paid. Failure to timely pay fees is grounds for permit revocation.</p>
4	<p>ACTION ON PERMIT APPLICATION.</p> <p>a. The Board will make permit decision, except as it has delegated this authority to staff by written resolution. The Board will review a staff permit decision on the applicant’s request. The Board will review and decide all requests for variance or an exception. The District may approve or deny an application, and may impose reasonable conditions on approval. As otherwise consistent with the rules, a permit may require financial assurance, and may require a maintenance agreement or</p>	4	<p>ACTION ON PERMIT APPLICATION. Permit decisions will be made by the Board of Managers except as delegated to staff by written resolution. The Board will review a staff permit decision on the applicant’s request. Variance requests will be acted on by the Board pursuant to the Variances and Exceptions Rule. The District may approve or deny an application and may impose reasonable conditions on approval. Conditions may include, as otherwise consistent with the rules, requirements for financial assurances, maintenance agreements and declarations and may require that these documents be properly executed or</p>

Revised Section	Revised Language	Current Section	Current Language
	<p>declaration to be properly executed or recorded before permit issuance.</p> <p>b. The District may reconsider and revoke a permit if it finds that a material error or misrepresentation was made in the application and that the correct information was available at the time of the application. The District may suspend or revoke a permit if preliminary or final subdivision approval received from the land use authority is not consistent with permit conditions.</p> <p>c. If approved plans or specifications are proposed to be changed after permit approval, a permittee must submit information necessary for the District to reevaluate compliance with District rules and determine whether the permit must be amended.</p>		<p>recorded before permit issuance.</p> <p>The District may reconsider and revoke a permit if it finds that a material error or misrepresentation was made in the application and that the correct information was available at the time of the application. The District may suspend or revoke a permit if preliminary or final subdivision approvals received from the relevant municipality or county are not consistent with the conditions of the permit.</p> <p>In the event of a material change from approved plans or specifications after conditional or final District approval of an application, a permittee must submit information necessary for the District to reevaluate compliance with District rules.</p>
5	<p>CONFORMITY WITH MUNICIPAL PLAN. The District will review applications for permits involving land development only after the applicant demonstrates that the plan has received preliminary approval from the land use authority. The requirement of preliminary approval means: (a) preliminary plat approval if required for the development; or (b) if plat approval is not required, approval by the municipal planning commission or a written statement from the responsible municipal official that the development meets municipal approval requirements.</p>	5	<p>CONFORMITY WITH MUNICIPAL PLAN. The District will review applications for permits involving land development only after the applicant demonstrates that the plan has received preliminary approval from each municipality in which development is to take place. The requirement of preliminary municipal approval shall mean: (a) Preliminary plat approval if required for the development; or (b) if plat approval is not required, approval by the municipal planning commission or a written statement from the responsible municipal official that the development meets municipal approval requirements.</p>
6	<p>NOTICE. Except where the applicable rule does not require public notice, an applicant for a District permit must supply a certified list of property owners and mailing labels for each property within 600 feet of any parcel on which the proposed project is to occur. A certified list may be obtained from county property information services. At the request of the applicant and at the applicant's expense, the District will supply the mailing list and labels. District staff will send notice of the proposed project to the individuals on the mailing list for the applicant at the applicant's expense. A copy of the list will be retained with the application at the District office. The application is not complete and will not be processed until the list has been submitted to the District or the applicant has asked the District to supply the applicable list and labels.</p>	6	<p>NOTIFICATION. Persons applying for a District permit must supply a certified list of property owners and mailing labels for each property within 600 feet of the parcel on which the proposed project is to occur. Certified lists may be obtained from county property information services. At the request of the applicant and at the applicant's expense, the District will supply the mailing list and labels. District staff will send notice of the proposed project to the individuals on the mailing list for the applicant at the applicant's expense. A copy of the list will be retained with the application at the District office. The application will not be deemed complete and will not be processed until the list has been submitted to the District or the applicant has requested the applicable list and labels from the District. Notification is not required for a Fast Track permit under the Erosion Control, Floodplain Alteration, Dredging and Shoreline & Streambank Stabilization rules.</p>
7	<p>ALTERNATIVE NOTICE. On written request, the District may approve alternative notice for any of the following projects:</p> <p>a. A linear project, including but not limited to a road, sidewalk or trail, one-half a mile or more in length.</p> <p>b. A project on a parcel or contiguous parcels with an area of 100 acres or more, where no more than five percent of the area will be disturbed, provided the disturbed area does not include a wetland.</p> <p>c. A project where the applicant proposes to combine notice under this rule with notice required under the approval procedures of another governmental body. The District must find that the alternative means will provide adequate notice to residents near the proposed activity.</p>	7	<p>ALTERNATIVE NOTIFICATION. The District, on written request, may approve alternative notification for any of the following projects:</p> <p>(a) A linear project, including but not limited to a road, sidewalk or trail, one-half mile or more in length.</p> <p>(b) A project on a parcel or contiguous parcels with an area of 100 acres or more, where no more than five percent of the area will be disturbed, provided the disturbed area does not include a wetland.</p> <p>(c) A project where the applicant proposes to combine notification under this rule with notification required under the approval procedures of another governmental body. The applicant must demonstrate that an alternative means of notification will provide adequate notice to residents near the proposed activity.</p>
8	<p>TIME FOR SUBMITTAL. For applications to be decided by the Board, the District must receive a complete permit application, including all required submittals, at least 21 days before a scheduled Board meeting date.</p>	8	<p>TIME FOR SUBMITTAL. A complete permit application which includes all required exhibits shall be received by the District at least 21 full days prior to the scheduled meeting date of the Board of Managers. Late submittals or submittals with incomplete exhibits will be scheduled to a subsequent meeting date.</p>
9	<p>PERMIT TERM, RENEWALS AND TRANSFERS. A permit that has not been suspended or revoked is valid for one year from the date the District has advised the applicant in writing of permit approval. However, a general permit under the Appropriations Rule does not expire and a property owner continues to qualify for coverage as long as the general permit criteria are met. The permit term is not extended while the applicant complies with conditions precedent to permit issuance.</p> <p>a. To renew a permit, the permittee must submit a renewal request on the District format, prior to the permit expiration date. If there has been a material change in circumstances, the District may</p>	9	<p>PERMIT RENEWALS AND TRANSFERS. A permit is valid for one year from the date the applicant is advised in writing that the District has approved the permit unless the permit is suspended or revoked, except that the general permit established under the Appropriations Rule does not expire and a property owner continues to qualify for coverage under the general permit as long as the applicable criteria are met. The valid period of a permit is not extended while the applicant complies with conditions precedent to actual issuance of the permit. To renew or transfer a permit, the permittee must notify the District in writing, prior to the permit expiration date, of the reason for the renewal or transfer request. The District may impose different or</p>

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	<p>impose different or additional conditions on a renewal, or deny the renewal. On the first renewal, a permit will not be subject to additional or different requirements solely because of a change in District rules. New or revised rule requirements will not be imposed on permit renewal if the permittee has made substantial progress toward completion of the permitted work.</p> <p>b. When property subject to an active permit is conveyed, the permittee and the new owner must request a permit transfer on the District format. Until a transfer is issued, the permittee and transferee will remain responsible for site conditions and permit compliance. The District will approve a transfer unless it finds that the proposed transferee has not demonstrated the ability to perform the authorized work in accordance with the conditions of the permit, in which case the District may impose conditions on or deny the transfer. Permit transfer does not extend the permit term.</p>		<p>additional conditions on a renewal or deny the renewal in the event of a material change in circumstances. On the first renewal, a permit will not be subject to additional or different requirements solely because of a change in District rules. New or revised rule requirements will not be imposed on renewal of a permit where the permittee has made substantial progress toward completion of the permitted work . A transfer shall be approved unless the District finds that the proposed transferee has not demonstrated the ability to perform the authorized work in accordance with the conditions of the permit, in which case the Board may impose conditions on or deny the transfer. Permit transfer does not extend the permit term.</p>
10	BASIS FOR DECISIONS. All interpretations of these rules and permit decisions under these rules will incorporate and be consistent with the District purposes set forth in Minnesota Statutes sections 103B.201 and 103D. 201.	10	BASIS FOR DECISIONS. All interpretations of these rules and permit decisions under these rules will incorporate and be consistent with District purposes set forth in Minnesota Statutes sections 103B.201 and 103D.201.

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 3. Erosion and Sediment Control**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

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Revised Section	Revised Language	Current Section	Current Language
1a	<p>POLICY. The District will implement this rule to limit erosion of soils from disturbed sites due to wind and water; reduce volume and velocity of stormwater moving off site; limit sedimentation into water bodies; and protect soil stability during and after disturbance. a. The District will apply this rule so that disturbed sites are managed according to the following principles: 1. Limit area and duration of exposed or unstable soils. 2. Limit disturbance of soil cover and vegetation, and work near waterbodies. 3. Limit disturbance on steep slopes and high cuts and fills. 4. Keep sediments on site, and out of roadways, stormsewers and waterbodies. 5. Avoid damage to trunks and root systems of trees and vegetation being preserved. 6. Avoid, limit and repair soil compaction.</p>	1	<p>POLICY. It is the policy of the Board of Managers to require preparation and implementation of erosion control plans for land-disturbing activities, in order to limit erosion from wind and water; reduce flow volumes and velocities of stormwater moving off site; reduce sedimentation into water bodies; and protect soil stability during and after site disturbance. These measures should reflect the following principles: (a) Minimize, in area and duration, exposed soil and unstable soil conditions. (b) Minimize disturbance of natural soil cover and vegetation. (c) Protect receiving water bodies, wetlands and storm sewer inlets. (d) Retain sediments from disturbed properties on site. (e) Minimize unintentional off-site sediment transport on trucks and equipment. (f) Minimize work in and adjacent to water bodies and wetlands. (g) Maintain stable slopes. (h) Avoid steep slopes and the need for high cuts and fills. (i) Minimize disturbance to the surrounding soils, root systems and trunks of trees and vegetation adjacent to site activity that are intended to be left standing. (j) Prevent and/or mitigate the compaction of site soils.</p>
1b	<p>As an owner or operator of a municipal separate storm sewer system (MS4), the District is subject to the terms of the Small Municipal Separate Storm Sewer Systems General Permit (MNR040000) issued by the Minnesota Pollution Control Agency (MPCA) on November 16, 2020. Specifically, the District's standards for erosion and sediment controls must be "at least as stringent" as those set forth in the MPCA Construction Stormwater General Permit (MNR100001, issued August 1, 2023) (MCSGP). For simplicity and consistency, this rule, at paragraph 4 below, adopts the applicable standards of the Construction Stormwater General Permit by reference.</p>	N/A	N/A
2	<p>PERMIT REQUIRED. a. Land-disturbing activity requires a permit under this rule, except for: 1. A land disturbance of less than 5,000 square feet in area. 2. Agricultural activity. b. A land disturbance less than one acre that is not part of a larger common plan of development or sale one acre or more, and that does not require a permit under any other District rule, may proceed under a General Permit in accordance with section 5, below. The activity is subject to section 5, but not otherwise subject to this rule. c. Excavation, filling or stockpiling 50 cubic yards or more of soil or earth material, if the disturbance</p>	2	<p>PERMIT REQUIREMENT. Unless specifically exempted by section 3, Exemptions, of this rule, land disturbing activity shall require a permit incorporating an erosion control plan approved by the District and shall be conducted in accordance with that plan. Applicants must provide a financial assurance pursuant to the District's Financial Assurance Rule. A Fast-Track permit may be issued for routine erosion control projects on a finding that the application: (a) Complies with the submission requirements of section 4, Permit Application, of this rule; (b) Includes an erosion control plan that: (1) Complies with section 5, Erosion Control Plan, of this rule; and (2) Provides for maintenance and inspection in accordance with sections 9, Maintenance,</p>

	<p>or stockpile is not isolated from precipitation and stormwater runoff by a structural enclosure, is subject to a General Permit in accordance with section 5, below.</p>		<p>and 10, Notification and Inspection, of this rule. Any request for a variance from a requirement of this rule must be decided by the Board of Managers.</p>
3		3	<p>EXEMPTIONS. The following land-disturbing activity shall not be subject to the requirements of this rule: (a) Activity that: (1) disturbs an area of less than 5,000 square feet; and (2) involves the grading, excavating, filling or storing on site of less than 50 cubic yards of soil or earth material. (b) Agricultural activity. (c) Emergency activity immediately necessary to protect life or prevent substantial physical harm to person or property, provided that erosion control measures, including any necessary remedial action, are implemented as soon as possible. (d) Activity otherwise subject to this rule, where the District has entered into a written agreement with the municipality where the activity takes place providing that the District will not exercise erosion control permitting authority with the city under the circumstances in question.</p>
3	<p>APPLICATION. a. The applicant must complete the District's Erosion and Sediment Control application through the Online Permitting Portal and submit an application fee or fee deposit, also through the portal, in accordance with the applicable fee schedule. b. The application must include an erosion and sediment control plan ("ESC Plan"). On District approval, the ESC Plan is a part of the permit and must be implemented according to its terms. The ESC Plan must be drawn to appropriate scale and benchmark, and must include the following. Required information is limited to the area within site boundaries, except where indicated. 1. Site parcel boundaries and off-site surrounding roads. 2. Water features and facilities, including lakes, streams and wetlands; established legal vegetated buffer on any such feature; natural and artificial water diversions and detention areas; surface and subsurface drainage facilities and stormwater conveyances; and storm sewer catch basins. 3. Identification of off-site receiving waterbodies and stormwater conveyance systems to which the site discharges. 4. Notation as to impaired or special management waters status of a receiving waterbody. If the site discharges within one mile of, and to, a water designated by the Minnesota Pollution Control Agency as impaired, the applicant must identify any Total Maximum Daily Load (TMDL) that has been approved and is still in effect. 5. Identification of areas adjacent to, and that drain to, public waters for which the Minnesota Department of Natural Resources has promulgated "work in water restrictions" during specified fish spawning times. 6. Existing and final site grades, steep slopes, and the direction of flow under pre- and post-disturbance conditions. 7. Existing and proposed buildings, impervious surface and other significant structures. 8. Existing and planned underground utilities. 9. Trees and vegetation, indicating what is intended to be retained. 10. Delineation of proposed area of disturbance and areas of soil or earth material storage; description of proposed grading, grubbing, clearing, tree removal, excavation, fill and other disturbance. 11. A statement of the following quantities: area of disturbance, volume of excavation, volume of imported fill materials, volumes of soil or earth materials temporarily placed on site. 12. Phasing plan to minimize the duration of exposed soil areas.</p>	4	<p>PERMIT APPLICATION. A written application for an erosion control permit shall be submitted by the owner of a site or an authorized representative. The application shall contain the following: (a) Site address. (b) Property owner's name, address and telephone number. (c) Names, addresses, telephone numbers and responsibilities of all contractors, subcontractors and other persons who will engage in the land-disturbing activities. (d) Name, address and telephone number of a single individual responsible for overseeing implementation of the erosion control plan on site. (e) Documentation of all applicable federal, state, county, municipal or township applications for the proposed action or a statement that such approval is not required. (f) Application date. (g) Signature of each property owner with a certification that he or she understands that the proposed activity must be conducted in compliance with this rule and the approved erosion control plan, and that the application is complete and accurate to the best of his or her belief. When a property owner is not a natural person, the application shall bear a signature of one authorized to act on the owner's behalf and documentation of the signatory's authority. (h) An erosion control plan as described at section 5, Erosion Control Plan, of this rule. (i) A soils engineering report as described at section 6, Soils Engineering and Geology Reports, of this rule, if requested by the District. (j) A geological report as described at section 6, Soils Engineering and Geology Reports, of this rule, if requested by the District. (k) A copy of the NPDES permit number for projects that require an NPDES permit from the Minnesota Pollution Control Agency. (l) An erosion control inspection plan in accordance with section 10, Notification and Inspection, of this rule for all projects disturbing ¼ acre or greater.</p>
		5	<p>5. EROSION CONTROL PLAN. The erosion control plan is a stand-alone document that shall include the following: (a) Site plans for existing and final proposed conditions drawn to appropriate scale. The plans shall contain: (1) The site location in relation to surrounding roads, steep slopes, other significant geographic features, buildings and other significant structures. (2) Existing and final grades, and the direction of flow for all pre- and post-construction runoff from the site.</p>

<p>13. Location and identification of proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures.</p> <p>14. Location of protective fencing around vegetation to be retained, to exclude all fill and equipment from the drip line or critical root zone, whichever greater.</p> <p>15. Areas where soil compaction is to be prevented, or minimized and repaired, including but not limited to filtration and infiltration stormwater facilities and areas to be retained as greenspace.</p> <p>16. Location and identification of existing and proposed permanent stormwater management facilities.</p> <p>c. If an applicant has determined that compliance with the temporary sediment basin or temporary buffer requirement of this rule is infeasible, the application must include the applicant's justification.</p> <p>d. The District may require other information that it reasonably finds necessary to evaluate and approve an application under this rule.</p>	<p>(3) Site property lines.</p> <p>(4) Identification and location of all existing and planned underground utilities, to be concentrated in corridors where safe, practical and feasible.</p> <p>(5) Identification of all receiving waterbodies and/or stormwater conveyance systems to which the site discharges. Specification of the Impaired or Special Management waters status of each receiving waterbody or conveyance system.</p> <p>(6) Identification and location of all onsite water features and facilities, including any lake, stream or wetland; any natural or artificial water diversion or detention area; any surface or subsurface drainage facility or stormwater conveyance; and any storm sewer catch basin.</p> <p>(7) Location of all trees and vegetation on site, with identification of that which is intended to be retained. Installation of protective fencing so as to exclude all fill and equipment from the drip line or critical root zone, whichever is greater, of all vegetation to be retained.</p> <p>(8) Location of buildings and structures on site.</p> <p>(9) Proposed grading or other land-disturbing activity including areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site; and delineated limits of disturbance.</p> <p>(10) Locations of proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures, including, but not limited to: inlet protection, perimeter control, temporary and permanent soil stabilization, concrete wash areas, slope breaks, energy dissipation, rock construction entrance, silt curtains.</p> <p>(11) Detail showing the location of all areas where compaction is to be prevented and/or mitigated. These areas shall be protected from construction vehicle traffic where practical and feasible. These areas include but are not limited to: filtration and infiltration stormwater facilities and areas that are proposed to be permanently landscaped as greenspace.</p> <p>(12) The location of all onsite, existing and proposed stormwater management facilities, including, but not limited to: infiltration basins, bio-filtration basins, stormwater ponds, porous pavers, underground storage and swales.</p> <p>(13) Location of any MCWD-regulated buffers on site (existing or to be established).</p> <p>(b) Plans and specifications must be provided showing all proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures, in accordance with the following criteria:</p> <p>(1) Plans and specifications shall conform to the provisions of "Stormwater Compliance Assistance Toolkit for Small Construction Operators" and/or the "2005 MN Stormwater Manual." (Minnesota Pollution Control Agency, 2004)</p> <p>(2) All erosion and sedimentation controls proposed for compliance with this rule shall be in place before any land-disturbing activity commences.</p> <p>(3) Plans shall provide that stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the downgradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on site and the manner of its proposed use.</p> <p>(4) Silt fence shall conform to Sections 3886.1 and 3886.2, Standard Specifications for Construction, Minnesota Department of Transportation (2000 ed.), as it may be amended.</p> <p>(5) Plans shall provide that all fabric fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the District has determined that the site has been permanently re-stabilized and shall be removed within 30 days thereafter.</p> <p>(6) Plans shall provide for permanent stabilization of all areas subject to land disturbance, retention of native topsoil on site wherever practical and feasible, <i>and specify at least six inches of topsoil or organic</i></p>
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		7	<p>ADDITIONAL INFORMATION.</p> <p>The District may require any additional information or data, as it finds relevant and necessary to evaluate and act on an application.</p>
N/A	N/A	6	<p>SOILS ENGINEERING AND GEOLOGY REPORTS.</p> <p><i>On a determination that the condition of the soils is unknown or unclear and that additional information is required to find that an applicant's proposed activity will meet the standards and purposes of this rule, the District may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include the following as requested by the District:</i></p> <p>(a) <i>Data and information obtained from the requested site investigation.</i></p> <p>(b) <i>A description of the types, composition, permeability, stability, erodibility and distribution of existing soils on site.</i></p> <p>(c) <i>A description of site geology.</i></p> <p>(d) <i>Conclusions and revisions, if any, to the proposed land-disturbing activity at the site or the erosion control plan, including revisions of plans and specifications.</i></p>
4	<p>SITE MAINTENANCE AND INSPECTION.</p> <p>In engaging in the approved activity, the permittee and those performing the work on the permittee's behalf must implement the ESC Plan in accordance with MCSGP sections 7, 8, 9, 10, 11, 12, 13 and 14; and with MCSGP paragraphs 16.4, 17.3, and 23.7 through 23.11, as they may be amended from time to time. These provisions are incorporated into this rule and attached as an addendum.</p>	9	<p>MAINTENANCE.</p> <p>The permittee shall be responsible at all times for the maintenance and proper operation of all erosion and sediment control management practices. On any property on which land disturbing activity has occurred pursuant to a permit issued under this rule, the permittee shall, at a minimum, maintain and repair all disturbed surfaces and all erosion and sediment control management practices and soil stabilization measures every day work is performed on the site. Specific maintenance requirements are as follows:</p> <p>(a) All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.</p> <p>(b) The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site, or diverts water around a site must be stabilized. Stabilization must be completed within 24 hours of connecting to a surface water. Portions of the ditch that are under construction must be stabilized within 24 hours after the construction activity in that portion has ceased.</p> <p>(c) Sediment control practices must minimize sediment from entering surface waters, including curb and gutter systems and storm sewer inlets.</p> <p>(d) Sediment control practices must be established on all downgradient perimeters before any upgradient land-disturbing activities begin. These practices shall remain in place until the District has determined that the site soils have been permanently stabilized.</p> <p>(e) The timing of the installation of sediment control practices may be adjusted to accommodate short-term activities such as clearing or grubbing or passage of vehicles. Any short-term activity must be completed as soon as possible and the sediment control practices must be installed immediately after the activity is completed. However, sediment control practices must be installed before the next precipitation event even if the activity is not completed.</p> <p>(f) All storm drain inlets must be protected by BMPs determined by the District to be appropriate, during construction until all sources with potential for discharging to the inlet have been stabilized.</p> <p>(g) Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.</p>

			<p>(h) In order to maintain sheet flow and minimize rills and gullies, there shall be no unbroken slope length of greater than 30 feet for slopes with a grade of 3:1 or steeper.</p> <p>(i) Temporary stockpiles must have effective sediment controls in place to prevent discharge to surface waters including stormwater conveyances such as curb and gutter.</p> <p>(j) Vehicle tracking of sediment from the construction site must be minimized by BMPs such as rock construction entrances, wash racks or equivalent practices. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked off site.</p> <p>(k) During construction of an infiltration or biofiltration system, rigorous prevention and sediment controls must be used to prevent the discharge of sediment into the infiltration/biofiltration area. Infiltration/biofiltration areas must not be excavated to final grade until the contributing drainage area(s) has been constructed and finally stabilized.</p> <p>(l) Dewatering or basin draining (e.g. pumped discharges, trench/ditch cuts for drainage) related to the construction activity that may have turbid or sediment laden discharge water must be discharged to a temporary or permanent sedimentation basin on the site whenever possible. If water cannot be discharged to a sedimentation basin prior to entering the surface water, it must be treated with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners.</p> <p>(m) If determined to be compacted by the District, site soils shall be decompacted to a depth of 18 inches and organic matter shall be incorporated before revegetation. Decompaction shall be accomplished solely by incorporation of organic matter within the drip line or critical root zone of trees or within 10 feet of underground utilities.</p> <p>(n) Inlet protection devices and all perimeter control shall be maintained once sediment accumulates to a depth 1/3 of the designed capacity.</p>
		10a	<p>NOTIFICATION AND INSPECTION.</p> <p>(a) INSPECTION:</p> <p>(1) The individual identified as being responsible for implementing the erosion control plan must routinely inspect the construction site once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours.</p> <p>(2) All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the erosion control plan and made available at the District's request within 24 hours. Records of each inspection and maintenance activity shall include:</p> <p>(i) Date and time of inspections;</p> <p>(ii) Name of person conducting inspections;</p> <p>(iii) Findings of inspections, including recommendations for corrective actions;</p> <p>(iv) Corrective actions taken (including dates, times and party completing maintenance activities); and</p> <p>(v) Date and amount of all rainfall events greater than 0.5 inches in 24 hours.</p>
5	<p>GENERAL PERMIT.</p> <p>a. Before land disturbance or stockpiling occurs, the applicant must submit a notice of disturbance and a simplified ESC Plan through the Online Permitting Portal. The simplified ESC Plan will include the content at subsection 3.b, paragraphs (1), (2), (6), (7) and (13), above. If the Online Permitting Portal notes the presence of regulated waterbody or floodplain on a parcel on which the activity is to occur, the applicant is notified and the general permit is not effective until District staff have determined that the activity does not require a permit under another District rule.</p> <p>b. A permittee operating under a District general permit must conduct all activity in accordance with the following terms:</p> <p>1. Erosion and sediment control measures must be consistent with best management practices, and sufficient to retain sediment onsite as demonstrated in the Minnesota Stormwater Manual.</p>	N/A	N/A

	<p>2. Erosion and sediment controls must be in place prior to construction start and assessed periodically to ensure functionality.</p> <p>3. If dewatering, Section 10 of the MCSGP.</p> <p>4. When land disturbing or stockpiling is complete, the site must be stabilized, and then erosion and sediment controls must be removed.</p> <p>5. By engaging in activity under a District permit, a property owner recognizes that District representatives may enter to inspect, and may direct site measures or institute compliance procedures if they find non-conformance with subsection 5.b, or that the site condition presents a risk to water resources.</p>		
6	<p>NOTIFICATION.</p> <p>The permittee or its authorized agent must notify the District through the Online Permitting Portal at the following times. A public applicant may request an alternative notification plan.</p> <p>a. When perimeter erosion and sedimentation controls have been installed.</p> <p>b. Before any site dewatering.</p> <p>c. When land-disturbing activity, stockpiling and soil stabilization and revegetation measures have been completed.</p> <p>d. When the site has achieved permanent stabilization.</p> <p>e. When all temporary erosion and sedimentation controls have been removed.</p>	10b	<p>NOTIFICATION. The applicant or its authorized agent shall notify the District in writing at the following points (large public projects may request alternative notification through use of on an onsite written log of the following points):</p> <p>On completing installation of perimeter erosion and sedimentation controls.</p> <p>On completing land-disturbing activities and putting into place measures for final soil stabilization and revegetation.</p> <p>Prior to any site dewatering.</p> <p>When the site has been permanently stabilized and re-vegetated.</p> <p>When all temporary erosion and sedimentation controls have been removed from the site.</p>
7	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances rule is a condition of permit issuance.</p>	8	<p>FINANCIAL ASSURANCE</p> <p>The District may require the applicant to file a bond or other financial assurance in accordance with the Financial Assurance Rule. The assurance must be in the form of a performance bond, a letter of credit or a cash escrow. The assurance shall be maintained until:</p> <p>(a) Final site stabilization and removal of erosion and sedimentation controls, as determined by the District, and the payment of all fees and amounts due to the District;</p> <p>(b) Forty-five (45) days after written notification to the District under paragraph 10(b)(5), if the District has failed to respond in writing; or</p> <p>(c) Such earlier time as the District may advise the applicant in writing.</p>

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 4. Floodplain Alteration**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

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Blue & bold font - Key language that represents a substantive change from current language
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Revised Section	Revised Language	Current Section	Current Language
1	POLICY. It is the policy of the Board of Managers to: a. Preserve flood storage capacity between the ordinary and 100-year high water elevations of waterbodies to limit flood frequency and severity; b. Limit flood risk for structures built in or adjacent to floodplain; c. Protect streambanks for stability, water quality and ecological values.	1	POLICY. It is the policy of the Board of Managers to: (a) Preserve existing water storage capacity below the 100-year high water elevation of all waterbodies in the watershed to minimize the frequency and severity of high water; (b) Minimize development below the 100-year high water elevation that will unduly restrict flood flows or aggravate known high water problems
2a	APPLICABILITY. A permit is required to fill, excavate or grade within the floodplain of a waterbody.	2	REGULATION. No person shall alter or fill land below the projected 100-year high water elevation of a waterbody without a permit from the District.
2b	For all work requiring a permit under paragraph 2(a), a structure intended for residential, commercial, industrial or institutional occupancy must be constructed so that door and window openings are at least two feet above the 100-year high water elevation of the waterbody.	3f	CRITERIA. All new residential, commercial, industrial and institutional structures shall be constructed such that all door and window openings are at a minimum of two feet above the 100-year high water elevation.
3a	EXCEPTIONS. A permit is not required for soil cultivation, soil amendment, or topsoil or sod addition for ordinary landscaping purposes.	2	REGULATION. A Fast Track permit may be issued for 6 inches or less of organic material to be incorporated into existing soil in preparation for sodding or seeding.
3b	If the floodplain of a waterbasin lies entirely within a municipality, the waterbasin does not outlet during the 100-year event, and the municipality regulates floodplain encroachment, a District permit under this rule is not required.	5	EXCEPTION. If the 100-year high water elevation of a waterbasin is entirely within a municipality, the waterbasin does not outlet during the 100-year event, and the municipality has adopted a floodplain ordinance prescribing an allowable degree of floodplain encroachment, the ordinance governs the allowable degree of encroachment and no permit is required under this rule.
4a	CRITERIA. Any floodplain fill must be offset so there is no loss in flood storage between the ordinary high water and 100-year high water elevations. There may not be net positive fill at any time during the work, unless applicant has demonstrated it is impractical and has obtained District approval of a sequencing plan for which applicant's registered professional engineer has demonstrated that the No-Rise Standard is met.	3a	CRITERIA. Fill shall not cause a net decrease in storage capacity below the projected 100-year high water elevation of a waterbody. The allowable fill area shall be calculated by a professional engineer registered in the State of Minnesota. Creation of floodplain storage capacity to offset fill shall occur before any fill is placed in the floodplain, unless the applicant demonstrates that doing so is impractical and that placement of fill and creation of storage capacity can be achieved concurrently. Any placement of fill prior to creation of floodplain storage capacity will only be allowed upon a demonstration by a registered professional engineer that such work will not aggravate high water conditions.
4b	Offset for fill in a waterbody other than a watercourse is not required if the applicant demonstrates that fill on all riparian properties to the extent proposed by the applicant would meet the No-Rise Standard and not restrict flood flows.	3c	The criteria of paragraph 3(a) does not apply to fill in a waterbody other than a watercourse if the applicant shows that the proposed fill, together with the filling of all other properties on the waterbody to the same degree of encroachment as proposed by the applicant, will not cause high water or aggravate flooding on other properties and will not unduly restrict flood flows.

4c	<p>Fill in a watercourse must meet the following criteria:</p> <ol style="list-style-type: none"> 1. No impervious surface may be placed within the 10-year floodplain or within 25 feet of the watercourse centerline, whichever greater, unless the surface is: (1) no more than 10% of the site 10-year floodplain area; or (2) a linear component of a public roadway or trail. 2. Applicant must meet the No-Rise Standard. 	3d	<p>No new impervious surface may be created within the lesser of the 10-year floodplain or 25 feet of the centerline of a watercourse, except impervious area may be created that is:</p> <ol style="list-style-type: none"> (1) no larger than 10% of the floodplain area of the parcel(s), or (2) the surface is an integral component of a linear public roadway or trail.
4d	<p>Ice ridge grading within a waterbasin must conform to the pre-existing basin cross-section. Soil material may be neither imported into nor removed from the floodplain.</p>	3b	<p>For fill in a watercourse, in addition to the criteria of paragraph 3(a), the fill shall not cause an increase in the 100-year flood elevation.</p>
5	<p>SUBMITTALS.</p> <ol style="list-style-type: none"> a. Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, and ordinary high water (OHW) and 100-year high water elevations. All elevations must be reduced to NGVD (1929 datum). b. Grading plan with proposed elevation changes. c. Preliminary plat, if applicable. d. Professional engineer registered in the State of Minnesota’s determination of the 100-year high water elevation before and after the project and, if paragraph 4(c) applies, of the edge of the 10-year watercourse floodplain. A DNR No-Rise Certificate may be submitted to document conformance with the No-Rise Standard, where applicable. e. Computation by a professional engineer, architect, land surveyor or landscape architect of volumes of floodplain fill and excavation and, if paragraph 4.c applies, of impervious surface area adjacent to a watercourse. f. If not otherwise subject to the District erosion control rule, an erosion control plan conforming to sections 5, Erosion Control Plan, and 9, Maintenance, of that rule. g. If more than 50 cubic yards of fill have been placed, on project completion applicant must submit an as-built survey prepared by a professional engineer, architect, land surveyor or landscape architect documenting locations of floodplain disturbance and the volumes of fill and created flood storage. 	3e	<p>Ice ridge grading within the floodplain must conform to the original cross-section of the lakebed. Approval for ice ridge grading or removal of ice ridge material from the floodplain requires the applicant to demonstrate that the ice ridge resulted from ice action during the previous winter. No additional material may be placed within the floodplain except in accordance with this Rule.</p>
		4	<p>REQUIRED EXHIBITS.</p> <p>The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11"x17".</p> <ol style="list-style-type: none"> (a) Site plan showing property lines, delineation of the work area, existing elevation contours of the work area, ordinary high water elevation (OHW), and 100-year high water elevation. All elevations must be reduced to NGVD (1929 datum). (b) Grading plan showing any proposed elevation changes. (c) Preliminary plat of any proposed land development. (d) Determination by a professional engineer of the 100-year high water elevation before and after the project and the extent of impervious surface within the 10-year floodplain. (e) Computation by a professional engineer of cut, fill and change in water storage capacity resulting from proposed grading. (f) Soil boring results if available. (g) If not otherwise subject to the District Erosion Control Rule, an erosion control plan conforming to sections 5, Erosion Control Plan, and 9, Maintenance, of the Erosion Control Rule. (h) Any project resulting in greater than 50 cubic yards of fill is required to provide an as-built survey upon project completion which documents the location and volume of both fill and compensatory storage.

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 5. Stormwater Management**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> a. Protect and improve the physical, chemical and ecological health of surface waters and groundwater within the District; b. Protect against local and regional flooding from land use change; c. Promote abstraction of rainfall and stormwater runoff to improve water quality, maintain groundwater recharge, reduce flooding and promote the health of native and designed plant communities; d. For land disturbance subject to regulation under the National Pollutant Discharge Elimination Program, align local and state stormwater management requirements for clarity and efficiency. 	1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> (a) Promote abstraction of precipitation and stormwater runoff where feasible for the purposes of improving water quality, increasing groundwater recharge, reducing flooding, and promoting the health of native and designed plant communities and landscapes; (b) Preserve, maintain and improve the aesthetic, physical, chemical and biological composition of surface waters and groundwater within the District; (c) Limit or reduce stormwater runoff from drainage within the watershed to decrease the negative effects of land-disturbing activities on surface water quality and flooding; (d) Protect and maintain existing groundwater flow, promote groundwater recharge and improve groundwater quality and aquifer protection; (e) Promote the preservation and use of native vegetation for the purpose of stormwater runoff abstraction and pollutant load reduction; (f) Promote nondegradation of water quality from new development and improvement in water quality from redevelopment; and (g) Promote the management of stormwater on site for the purposes of providing local groundwater recharge and maintaining natural hydrology.
2a	<p>APPLICABILITY. A permit under this rule is required for the following actions:</p> <ul style="list-style-type: none"> 1. Development or a Linear Transportation Project that meets criteria for site size, extent of site disturbance and impervious surface change set forth in Table 1 and Table 2 of this rule. In applying Table 1, the District will aggregate all activity that it finds to constitute a Common Plan of Development and all impervious surface constructed within ten years of the date of application. If the earlier work was pursuant to a District permit, the ten-year period is determined from the date of permit issuance or reissuance. 2. Subdivision of a tract at least one acre in size into three or more buildable lots. 3. Grading or otherwise changing land contours, except for agricultural activity, so as to affect the direction, peak rate, volume or water quality of runoff. 	2	<p>REGULATION. No one may create new or replace existing impervious surface or change the contours of a parcel of land in a way that affects the direction, peak rate, volume, or water quality of runoff flows from the parcel or subdivide a parcel of one acre or more in size into three or more lots without first submitting a stormwater management plan to the District and securing a permit from the District approving the plan. New development is subject to sections 3 and 7-11 below (see Table 2). Redevelopment is subject to sections 3-5 and 7-11 below (see Tables 3 and 4). Subdivision of land is subject to section 3-5 and 7-11, as applicable. Linear Transportation Projects are subject to sections 3 and 6-11 below (see Table 5).</p> <p>Activity subject to this rule on adjacent sites under common or related ownership shall be considered in the aggregate, and the requirements applicable to the activity under this rule will be determined with respect to all development that has occurred on a site, or on adjacent sites under common or related ownership, <i>since the date this rule took effect (January 2005).</i></p>

2b	<p>The following actions, even if subject to paragraph 2.a, do not require a permit if the amount of new and reconstructed impervious surface is less than one acre:</p> <ol style="list-style-type: none"> 1. Single-family residential Development on an existing lot of record. 2. Construction of a sidewalk or trail not more than 12 feet in width, and bordered downgradient by pervious vegetated buffer averaging at least half the width of the sidewalk or trail. 3. Linear Transportation Projects where the net increase of impervious surface is <10,000 square feet. 4. Sites that reduce impervious by 10%. 	2	<p>The following activities are exempt from this rule:</p> <p>(a) SINGLE FAMILY HOMES: Construction or reconstruction of a single- family home.</p> <p>(b) NEW DEVELOPMENT: New development for a residential, commercial, industrial or institutional use (see Table 2):</p> <ol style="list-style-type: none"> (1) that will result in less than 20 percent impervious surface over the site; or (2) on a site of less than one acre. <p>(c) REDEVELOPMENT: Redevelopment for a residential, commercial, industrial or institutional use (see Table 3):</p> <ol style="list-style-type: none"> (1) on a site that is less than five acres in size that will result in at least a ten percent reduction in impervious surface; or (2) on a site of five acres or greater where the proposed activity disturbs less than 40 percent of the site and results in at least a ten percent reduction in impervious surface. <p>(d) LINEAR TRANSPORTATION PROJECTS: Construction of a new or reconstruction of an existing road, trail, sidewalk, utility, or other linear transportation project (see Table 5):</p> <ol style="list-style-type: none"> (1) that will create less than 10,000 square feet of new impervious surface; or (2) for the construction of sidewalks and trails that will not exceed 12 feet in width and will be bordered on the downgradient side(s) by a pervious buffer averaging at least one-half the width of the sidewalk or trail.
2c	<p>An action requiring a permit under paragraph a.2 or a.3 is not subject to section 3 of this rule. However, for an action under paragraph a.2, the applicant must provide a conceptual stormwater management plan and the permit will require subsequent land disturbance within the subdivided tract to demonstrate compliance with section 3.</p>	N/A	N/A
3a	<p>VOLUME CONTROL. For purposes of both volume and phosphorus control, an applicant subject to this rule under paragraph 2.a.1 must provide abstraction volume equal to the following. Abstraction volume is to be calculated in accordance with Appendix A to this rule.</p> <ol style="list-style-type: none"> 1. For Development, one inch times the area of impervious surface stated in Table 1. 2. For a Linear Transportation Project, either one inch times the area of new impervious surface, or one-half inch times the area of new and reconstructed impervious surface, whichever greater, except that if the total of new and reconstructed impervious surface is less than one acre, the volume is to be calculated only for the net increase in impervious surface as stated in Table 2. 	3	<p>STORMWATER MANAGEMENT PLAN GENERAL REQUIREMENTS. A stormwater management plan submitted to the District must meet the following requirements, subject to the provisions in sections 4-8:</p>
		3a	<p>PHOSPHORUS CONTROL.</p> <p>(1) NEW DEVELOPMENT/LINEAR TRANSPORTATION PROJECTS: Activity subject to this rule for new development or linear transportation projects shall result in no net increase in phosphorus loading from existing conditions, except that:</p> <ol style="list-style-type: none"> i. For a parcel in existing use for row crop agriculture or feedlot, new development shall result in no net increase in phosphorus loading from the site as modeled in meadow condition. <p>(2) REDEVELOPMENT: Phosphorus control must be provided in accordance with subsection 3(c)(2), where applicable.</p>
		3c(1)	<p>VOLUME CONTROL.</p> <p>(1) The stormwater management plan must provide for the abstraction of the first one inch of rainfall from the site’s impervious surface. Credit toward compliance with the one inch volume control standard will be calculated by the applicant using industry accepted hydrologic models and Appendix A: Volume Abstraction Credit Schedule, following guidance provided in the Minnesota Pollution Control Agency’s Minnesota Stormwater Manual.</p>
		4	<p>REDEVELOPMENT REQUIREMENTS – DECREASE OR NO CHANGE IN IMPERVIOUS SURFACE.</p> <p>A stormwater management plan submitted to the District that proposes through redevelopment to decrease or result in no net increase in impervious surface must meet the following requirements (see Table 3):</p> <ol style="list-style-type: none"> (a) For sites that are one acre or less, Best Management Practices are required in accordance with subsection 3(d); (b) For sites that are between one acre and five acres and the proposed activity disturbs less than 40 percent of the site, Best Management Practices are required in accordance with subsection 3(d); (c) For sites that are between one acre and five acres and the proposed activity disturbs 40 percent or more of the site, the stormwater management plan must meet the volume control requirement in subsection 3(c) and the phosphorus control requirement in subsection 3(a)(2), where applicable;

			<p>(d) For sites that are greater than five acres and the proposed activity disturbs less than 40 percent of the site, Best Management Practices are required in accordance with subsection 3(d);</p> <p>(e) For sites that are greater than five acres and the proposed activity disturbs 40 percent or more of the site, the stormwater management plan must meet the volume control requirement in subsection 3(c) and the phosphorus control requirement in subsection 3(a)(2), where applicable.</p>
		5	<p>REDEVELOPMENT REQUIREMENTS – INCREASED IMPERVIOUS SURFACE.</p> <p>A stormwater management plan submitted to the District that proposes to increase impervious surface through redevelopment must meet the following requirements (see Table 4):</p> <p>(a) For sites that are one acre or less, Best Management Practices are required in accordance with subsection 3(d);</p> <p>(b) For sites that are greater than one acre and the proposed activity disturbs less than 40 percent of the site and results in an increase in impervious surface of less than 50 percent, the phosphorus control requirements of subsection 3 (a), rate control requirements of subsection 3(b) and volume control requirements of subsection 3(c) apply to the area of increased impervious surface;</p> <p>(c) For sites that are greater than one acre and the proposed activity disturbs 40 percent or more of the site, or results in an increase in impervious surface of 50 percent or more, the phosphorus control requirements of subsection 3(a), rate control requirements of subsection 3(b), and volume control requirements of subsection 3(c) apply to the entire site.</p>
		6	<p>LINEAR TRANSPORTATION PROJECT REQUIREMENTS (see Table 5).</p> <p>(a) The construction of a new road, trail, sidewalk, utility, or other linear transportation project that will create 10,000 square feet or more of impervious surface must meet the phosphorus control requirements in accordance with subsection 3(a), rate control requirements in accordance with subsection 3(b) and volume control requirements in accordance with subsection 3(c);</p> <p>(b) Linear Reconstruction Projects that will increase the impervious area within the project limits by between 10,000 square feet and one acre from existing conditions must meet the phosphorus control requirements in accordance with subsection 3(a) and rate control requirements in accordance with subsection 3(b) for the area of increased impervious surface;</p> <p>(c) Linear Reconstruction Projects that will increase the impervious area within the project limits by one acre or more from existing conditions must meet the phosphorus control requirements in accordance with subsection 3(a), rate control requirements in accordance with subsection 3(b), and volume control requirements in accordance with subsection 3(c) for the area of increased impervious surface.</p>
3b	<p>Abstraction must be used to meet the subsection 3.a standard, to the extent feasible. An infiltration practice is prohibited in the following circumstances:</p> <ol style="list-style-type: none"> 1. The area receives discharge from a vehicle fueling and maintenance area. 2. Contamination in soil or groundwater may be mobilized by the infiltrating stormwater. 3. Soils infiltration rate exceeds 8.3 inches per hour. 4. The separation between the bottom of the infiltration system and the elevation of seasonally saturated soils or top of bedrock is less than three feet. 5. Soils are predominantly Hydrologic Soil Group D (clay) or otherwise unreliable for infiltration. 6. The area is within an Emergency Response Area (ERA) in a Drinking Water Supply Management Area (DWSMA), as defined in Minnesota Rules 4720.5100, subpart 13, classified as high or very high vulnerability. 7. The area is within an ERA in a DWSMA classified as moderate vulnerability, or outside of an ERA in a DWSMA classified as high or very high vulnerability. This prohibition does not apply if an engineering evaluation, meeting standards in the Minnesota Stormwater Manual, demonstrates that the system will function and not have adverse impact on groundwater. 8. The area is within 1,000 feet upgradient, or 100 feet downgradient, of an active karst feature. 9. The area receives stormwater runoff from one of the following entities regulated under NPDES 	3c(2)	<p>Where an applicant demonstrates that it is infeasible to meet the one inch abstraction requirement through use of volume control credits pursuant to subsection 3(c)(1), the stormwater management plan must provide for abstraction of runoff to the greatest extent feasible, and at least 0.5 inches, and phosphorus control in an amount equivalent to that which would be achieved through abstraction of one inch of rainfall from the site’s impervious surfaces. To demonstrate infeasibility of providing abstraction pursuant to 3(c)(1), the applicant must submit a completed Abstraction Analysis containing at a minimum the following information:</p> <ol style="list-style-type: none"> i. A narrative that lists and explains the variables that limit the feasibility of providing one inch of volume control for runoff from the site’s impervious surface. These variables may include but are not limited to unified soil classification, soil contamination, proximity to bedrock, proximity to groundwater, proximity to existing utilities, spatial constraints, zoning requirements, and financial considerations. ii. A narrative and conceptual plan(s) that describes and discusses how reasonable modifications to the size, scope, configuration or density of the project would influence the feasibility of providing one inch of volume control for runoff from the sites impervious surface. iii. An explanation of efforts undertaken by the applicant to accommodate or remove the constraints that influence the feasibility of providing one inch of volume control for runoff from the site’s impervious surface.

	<p>for industrial stormwater: automobile salvage yard; scrap recycling and waste recycling facility; hazardous waste treatment, storage, or disposal facility; air transportation facility that conducts deicing.</p> <p>To support a finding of infeasibility, the applicant must document the constraint and examine means to remove or avoid it including modifying the size, scope, configuration or density of the proposed action. To document contamination under paragraph 3.b.2, the permittee must complete the Minnesota Pollution Control Agency site screening assessment checklist, available in the Minnesota Stormwater Manual, or submit an independent assessment.</p>		
3c	If the required abstraction volume cannot feasibly be provided by abstraction practices listed in Appendix A, the applicant must incorporate filtration or other non-abstraction practices to achieve phosphorous control in an amount equivalent to that which would be achieved through abstraction of the required volume. Equivalent phosphorus control may be demonstrated by modeling or, for filtration practices, by treating twice the required abstraction volume, as calculated in accordance with Appendix A to this rule.		
3d	For a Linear Transportation Project, if the required abstraction volume cannot be provided within existing right-of-way, the permittee must make a reasonable attempt to obtain additional right-of-way, easement or other permission to site the required volume. Abstraction volume is not required to the extent it cannot be provided cost-effectively.		
3e	Runoff volume draining to a landlocked area may not increase during back-to-back 100-year storm events.	3c(3)	The volume of runoff draining to a landlocked receiving area may not increase due to a project unless the applicant can demonstrate that any additional runoff volume from the project will be effectively abstracted. In addition, the applicant shall either own or have proper rights over the landlocked property receiving runoff from the project area. Back-to-back 100-year runoff events will be used to analyze holding capacity and high-water elevation for landlocked areas.
4	<p>RATE CONTROL.</p> <p>a. An action may not increase the peak runoff rate from the site, in aggregate, for the one- or two-, 10- or 100-year design storm event. An applicant proposing to increase peak runoff at a specific point of site discharge must demonstrate no adverse local impact on water resource values or infrastructure. Aggregate compliance for all site boundary discharge will be determined with respect to runoff not managed in a regional facility.</p> <p>b. For a tract being converted from row crop agriculture, the criterion of no increase applies as compared with an assumed existing meadow condition.</p>	3b	<p>RATE CONTROL.</p> <p>(1) Activity subject to this rule shall result in no net increase in the peak runoff rate for the 1-, 10- and 100-year design storms where stormwater discharges across the downgradient site boundary, compared to the rate for the site in its existing condition, except that:</p> <p>i. For a parcel in use for row crop agriculture or feedlot, new development shall result in no net increase in the peak runoff rate from the site as modeled in meadow condition.</p> <p>(2) Peak runoff rates for the 1-, 10- and 100-year design storms may not increase within a specific drainage area of the site so as to create or exacerbate drainage or erosion problems.</p>
5	<p>BEST MANAGEMENT PRACTICE (BMP).</p> <p>When a BMP is specified in Table 1 or 2, an applicant must incorporate an on-site structural or non-structural practice to achieve one or more of the following: limit impervious surface increase, abstract stormwater, reduce pollutant discharge, or control peak flow from the site. The permittee will select the BMP to address the impacts posed by the proposed action. The BMP must be designed and installed in accordance with the Minnesota Stormwater Manual and accepted engineering practice.</p>	3d	<p>BEST MANAGEMENT PRACTICES (BMPs).</p> <p>(1) BMPs addressing the potential water resource impacts associated with the proposed activity must be incorporated to limit creation of impervious surface, maintain or enhance on-site infiltration and peak flow control and limit pollutant generation on and discharge from the site. BMPs may include site design, structural and non-structural practices.</p> <p>(2) BMPs must be designed and installed in accordance with generally accepted design practices and guidance contained in the Minnesota Pollution Control Agency's Minnesota Stormwater Manual and its subsequent revisions.</p>
6	<p>FLOOD SEPARATION.</p> <p>There must be two feet of vertical separation between the 100-year high water elevation of a waterbody or stormwater practice and the low opening of any structure, unless the structure opening is hydraulically disconnected from the waterbody or practice.</p>	3e	<p>HIGH WATER ELEVATION.</p> <p>(1) All applications shall provide at least two vertical feet of separation between low openings of structures and the 100-year high water elevations of stormwater BMPs and waterbodies.</p>
7	<p>IMPACT ON DOWNGRADIANT WATERBODIES.</p> <p>a. A new point source must treat for sediment and phosphorus removal before discharge to a waterbody. This paragraph does not apply to changes in flow from an existing point source.</p>	8	<p>IMPACT ON DOWNSTREAM WATERBODIES.</p> <p>(a) No new point source may discharge to a waterbody without pretreatment for sediment and nutrient removal. Pretreatment may be provided by non-structural means. An activity changing flow that discharges from an existing point source is not a new point source.</p>

	<p>b. An action otherwise subject to this rule must meet the following criteria: [See table in rule]</p>		<p>(b) No activity subject to this rule may alter a site in a manner that results in a(n): (1) Increase in the bounce in water level for any downstream lake or wetland beyond the limits specified in Table 1 below based on management classification, during a rainfall event of critical duration with a return frequency of 1, 10, or 100 years. (2) Increase in the duration of inundation for any downstream lake or wetland beyond the limits specified in Table 1 below based on management classification, during a precipitation event of critical duration with a return frequency of 1, 10, or 100 years. (3) Change in the elevation of the runoff control of any lake or wetland beyond the limits specified in Table 1 below based on management classification. [See table in rule]</p>
8	<p>LOCATION OF VOLUME AND RATE CONTROL PRACTICES. a. A volume or rate control practice may be located on site, or downgradient of the regulated impervious surface but before runoff from the surface enters any public water. b. For use of an off-site facility, the applicant must incorporate an on-site BMP in accordance with section 5, above, and must demonstrate that there will be no adverse water resource impact upgradient of the facility. c. For use of an off-site regional facility, the applicant must demonstrate that the facility was designed and constructed to manage the stormwater runoff from the site, the applicant has permission to use the necessary part of facility capacity, the facility is subject to satisfactory maintenance obligations enforceable by the District, and its current maintenance conforms with those obligations. d. A public or private entity may construct a regional volume or rate control facility in advance of its use for compliance purposes. The</p>	7	<p>REGIONAL STORMWATER MANAGEMENT. (a) An applicant may comply with this rule by providing equal or greater phosphorus control, rate control, or volume control through a regional or subwatershed plan approved by the District; such a plan must provide for an annual accounting to the District of treatment capacity created and utilized by projects or land-disturbing activities within the drainage and treatment area of the plan. (b) District approval of a regional or subwatershed plan will be based on a determination that: (1) the use of a regional facility in place of onsite stormwater management will not result in adverse impacts to local groundwater or natural resources located upstream of the regional facility, including, but not limited to, reduced water quality, altered wetland hydrology, changes to stream velocities or baseflow, erosion, or reduced groundwater recharge; and (2) the plan incorporates onsite BMPs as necessary to mitigate impacts and provide local benefits not provided by the regional facility. (c) Individual project sites utilizing a regional facility to meet phosphorus, rate, or volume control requirements must incorporate BMPs on the project site in accordance with subsection 3(d). (d) The applicant, before commencing any land-altering activity, must demonstrate that it holds the legal rights necessary to discharge to the stormwater facility or facilities in the plan, and that the facility or facilities are subject to a maintenance document satisfying the requirements of section 11.</p>

9	<p>SUBMITTALS.</p> <p>a. The applicant must submit a plan, certified by a professional engineer registered in the State of Minnesota, to the District. The plan must contain the following:</p> <ol style="list-style-type: none"> 1. Property lines of the tract or contiguous tracts under applicant's ownership. 2. Delineation of subwatersheds that contribute runoff to the site, and of existing and proposed subwatersheds on the site. 3. Delineation of top of bank of existing on-site waterbodies and of floodplain, and notations of ordinary high-water level and 100-year high water elevation of on-site waterbodies. 4. Delineation of any flowage or drainage easements, or of other property interests dedicated to water management or conveyance. 5. Existing and proposed site elevations at two-foot intervals, related to National Geodetic Vertical Datum (NGVD), 1929 datum. 6. Locations, alignments, and elevations of existing and proposed stormwater management facilities, as well as construction plans and specifications for all proposed facilities. 7. All hydrologic, hydraulic and water quality computations on which the design of proposed stormwater management facilities is based, including (i) runoff volume abstractions; and (ii) stormwater runoff volume and rate analyses for the one- or two-, 10- and 100-year design storms, for existing and proposed conditions, at each point of site discharge. <p>b. If proposing to meet this rule by infiltration through site soils, the applicant must characterize soils by use of soil pits or hand augers, and must submit a soils report that describes, measures permeability of, and delineates site soils and includes the soil sampling methodology used. Borings for an infiltration facility must extend at least five feet below than the proposed bottom elevation of the facility.</p> <p>c. If proposing that infiltration is infeasible, the applicant must provide supporting documentation in accordance with subsection 3.b.</p> <p>d. If proposing soil amendment, the applicant must submit a soil amendment plan for District approval.</p> <p>e. If proposing capture and reuse, the applicant must submit a system operating plan and calculations that quantify the benefits of the reuse system.</p> <p>f. The applicant must document application for a National Pollutant Discharge Elimination System (NPDES) permit, if applicable.</p>	10	<p>REQUIRED EXHIBITS.</p> <p>(a) Plans certified by a professional engineer registered in the State of Minnesota and reflecting the following items shall accompany the permit application (one set of plans must be full size; one set must be reduced to a maximum size of 11" x 17"; provide electronic ArcGIS or CADD files when available):</p> <ol style="list-style-type: none"> (1) Property lines and delineation of lands under ownership of the applicant. (2) Delineation of the subwatershed contributing runoff from off-site and proposed and existing subwatersheds on-site. (3) Proposed and existing locations, alignments, and elevations of stormwater facilities. (4) Delineation of existing on-site wetland, shoreland, and/or floodplain areas. (5) Existing and proposed normal, and 100 year high water elevations on-site. (6) Existing and proposed site contour elevations at two foot intervals, related to National Geodetic Vertical Datum (NGVD), 1929 datum. (7) Construction plans and specifications for all proposed stormwater management facilities. (8) Stormwater runoff volume and rate analyses for the 1-, 10- and 100- year design storms for existing and proposed conditions. (9) All hydrologic, water quality, and hydraulic computations completed to design the proposed stormwater management facilities including runoff volume abstractions. (10) Delineation of any flowage easements or other property interests dedicated to stormwater management purposes, including, but not limited to, county or judicial ditches. <p>(b) For applications proposing infiltration, a soil sampling plan and the resulting identification, description, permeability, and approximate delineation of site soils. Investigation methods shall include soil pits or hand augers. Borings at the location of the infiltration facility must extend at least five feet deeper than the proposed bottom elevation of the infiltration facility.</p> <p>(c) For applications proposing tree preservation or planting, a site map showing existing trees larger than six inches in diameter, including species, diameter, and associated drip lines (canopy area). Tree map must designate trees to be removed and trees to be added.</p> <p>(d) For applications proposing soil amendments, a soil amendment plan following guidance from the Minnesota Pollution Control Agency's Minnesota Stormwater Manual.</p> <p>(e) For applications proposing capture and reuse, an operating plan and calculations that quantify the benefits of the proposed stormwater reuse system.</p> <p>(f) Documentation indicating conformance with an existing municipal stormwater management plan. When a municipal plan does not exist, documentation that the municipality has reviewed the project.</p> <p>(g) Documentation that the applicant has applied for a National Pollutant Discharge Elimination System (NPDES) Permit if required by the Minnesota Pollution Control Agency (MPCA).</p> <p>(h) Abstraction analysis (if applicable) in accordance with subsection 3(c)(2).</p> <p>(i) A declaration and maintenance agreement in conformance with section 11.</p>
10	<p>STORMWATER FACILITY MAINTENANCE.</p> <p>a. A stormwater management facility must be designed for maintenance access and maintained in perpetuity to function as designed.</p> <p>b. As a condition of permit issuance, a permittee must sign and record on the title a declaration or other instrument, in a form supplied by the District or otherwise acceptable to it, that provides for perpetual facility maintenance. A public permittee, in place of a recorded instrument, may enter into a signed agreement with the District by which the permittee assumes permanent maintenance responsibility.</p> <p>c. A public entity may assume responsibility to maintain a stormwater facility on private property either by: (1) being a signatory to the private-party declaration; or (2) entering into a signed agreement with the District and separately establishing, by means acceptable to the District, its perpetual right to enter the property.</p>	11	<p>MAINTENANCE.</p> <p>(a) All stormwater management structures and facilities must be designed for maintenance access and properly maintained in perpetuity to assure that they continue to function as designed. Permit applicants must provide a maintenance plan that identifies and protects the design, capacity and functionality of onsite and offsite stormwater management facilities; specifies the methods, schedule and responsible parties for maintenance; provides for the maintenance in perpetuity of the facility; and contains at a minimum the requirements in the District's standard maintenance declaration. The plan will be recorded on the deed in a form acceptable to the District. A public entity assuming the maintenance obligation may do so by filing with the District a document signed by an official with authority.</p>

11	<p>FINANCIAL ASSURANCE. A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances rule is a condition of permit issuance.</p>	9	<p>FINANCIAL ASSURANCE. (a) A performance bond, letter of credit or other financial assurance, consistent with the District Financial Assurance Rule, may be required for any project that requires the installation of stormwater best management practices. The financial assurance shall be maintained until the stormwater best management practice has been constructed and stabilized in accordance with District rules and as shown on a set of as built drawings submitted to the District.</p>
	<p>[See Tables 1 and 2 in the proposed rule]</p>		<p>[See Tables 2-5 in the current rule]</p>
	<p>[See Appendix A in the proposed rule]</p>		<p>[See Appendix A in the current rule]</p>

Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 6. Waterbody Crossings and Structures

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

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<i>Italics</i> - removed text

Revised Section	Revised Language	Current Section	Current Language
1	POLICY. It is the policy of the Board of Managers to: a. Limit the encroachment of roadways and other infrastructure on the beds and banks of waterbodies; b. Preserve the ecological and recreational integrity of the riparian and aquatic environment; and c. Preserve wildlife passage and habitat.	1	POLICY. It is the policy of the Board of Managers to: (a) Discourage the use of beds and banks of waterbodies for the placement of roads, highways, and utilities (b) Preserve the ecological integrity of the riparian and aquatic environment, including wildlife and fisheries habitat, and recreational water resources; and (c) Encourage improvement of wildlife passage and habitat, especially for larger projects involving culverts and public right of way in or near natural corridors.
2	REGULATION. One may not place a roadway, bridge, boardwalk, utility, conveyance, or associated structure below the top of bank of a waterbody; place any such structure beneath a waterbody; or enclose any part of a waterbody within a pipe or culvert; without first securing a permit from the District.	2	REGULATION. No person shall conduct horizontal drilling under or place a road, highway, utility, bridge, boardwalk or associated structure in contact with the bed or bank of any waterbody, including alteration of a waterbody to enclose it within a pipe or culvert, within the District without first securing a permit from the District.
3a	CRITERIA. Use of the bed or bank must: Serve a public purpose, for projects in public waters, and meet a demonstrated specific need for all other projects.	3a	CRITERIA. Use of the bed or bank: Shall meet a demonstrated public benefit for projects involving crossings or structures in public waters, and meet a demonstrated specific need for all other projects;
3b	Retain adequate hydraulic capacity. A project in a watercourse may not increase upstream or downstream flood stage.	3b	Shall retain adequate hydraulic capacity. For watercourses, changes in hydraulic capacity may not result in upstream or downstream increases in flood stage
3c	Preserve navigational capacity.	3c	Shall retain adequate navigational capacity
3d	Preserve aquatic and upland wildlife passage along each bank and within the waterbody. Where preservation is incompatible with function, passage must be replicated by incorporation of a culvert, shelf or other means properly designed for the ecological setting.	3d	Shall preserve aquatic and upland wildlife passage along each bank and within the waterbody as follows: (1) Where there is sufficient depth and width, waterbody crossings shall provide upland bank passage to the greatest extent feasible, graded to connect to the streambank on both the upstream and downstream ends; (2) Where the depth or the width of is not sufficient to provide adequate upland bank passage, waterbody crossings shall provide multiple offset culverts; (3) Where the multiple offset culverts are not feasible, waterbody crossings shall provide a wildlife shelf insert above bankful height, unless such a structure will impact hydraulic capacity; (4) <i>Rural section low traffic roads that meet vertical and horizontal site distances for a vehicle speed of 40 mph or less in Table 1, are exempt from the requirements of 3(d)(3).</i>
3e	Be designed so that the structure does not promote erosion or scour, or otherwise affect bed or bank stability, or water quality, within the waterbody. Where the work is installation or replacement of a stormwater outlet structure, this criterion does not examine pollutant load associated with the stormwater discharge.	3e	Shall not adversely affect water quality;
3f	Be the “minimal impact” solution to the specific need. The applicant must consider, as applicable, rerouting to avoid a crossing, designing a crossing to avoid disturbance below top of bank, limiting	3f	Shall represent the “minimal impact” solution to a specific need with respect to all other reasonable alternatives, including, but not limited to vegetation or bioengineering for bank stabilization, structural bank

	multiple crossings of a meandering waterbody, installing upstream controls to manage stream flow, vegetation or bioengineering for bank stabilization, structural bank stabilization (riprap, retaining walls), and avoiding encroachment for non-water-dependent uses. The term “minimal impact” shall refer to all resources protected under the purposes of the District set forth at sections 103B.201 and 103D.201 of the Minnesota Statutes.		stabilization (riprap, retaining walls), acquisition of additional easements, or installation of upstream controls to manage stream flow. The term “minimal impact” shall refer to all resources protected under the purposes of the District set forth at sections 103B.201 and 103D.201 of the Minnesota Statutes; and
3g	For a subsurface crossing, provide for minimum clearance of three feet below the bed of a waterbody, and a minimum setback of 100 feet from any stream bank for pilot, entrance, and exit holes associated with horizontal directional drilling. Where the bed elevation is indeterminate, including but not limited to a subsurface wetland crossing, the District will specify a minimum clearance as necessary to protect the water quality and ecology of the waterbody. The setback may be reduced if the applicant demonstrates that it is infeasible to meet a wider setback, and on the basis of an erosion control plan and other appropriate measures that will preserve streambank integrity and prevent sediment movement.	3g	Shall provide for minimum clearance of 3 feet below the bed of a waterbody, and a minimum setback of 100 feet from any stream bank for pilot, entrance, and exit holes, for projects involving horizontal directional drilling.
3h	For a sanitary sewer crossing, incorporate automatic valves, diversions, redundant pipes, double encasement, or other features to avoid sanitary discharge to a surface water in the event of a line failure.	3h	Shall provide a design for avoiding sanitary discharge to a surface water in the event of a sanitary sewer breakage through use of valves, diversions, redundant pipes or other means.
4a	EXCEPTIONS. The Board of Managers may waive the requirements of this rule on a finding that a waterbody is significantly altered from a natural state, that it is degraded, and that the proposed application would provide ecological restoration and a greater degree of resource protection than would conformance to this rule.	4	The requirements of this rule may be waived upon a determination by the Board of Managers that a waterbody has been significantly altered from a natural state and degraded and that the proposed application would provide ecological restoration and a greater degree of resource protection than would strict compliance with the rule.
4b	Riprap placed below a culvert or outfall for energy dissipation purposes if the riprap complies with MnDOT Standard Plates 3133, 3134, and 3139 and appropriate erosion and sediment controls are utilized.	N/A	N/A
5	REQUIRED EXHIBITS. The following exhibits must accompany the permit application. a. Construction plans and specifications. b. Analysis, by a professional engineer or qualified hydrologist, of the effect of the project on hydraulic capacity and water quality. c. An erosion control plan that includes measures for site restoration and permanent stabilization. d. Information necessary to evaluate conformance to paragraph 3(f), including at least two alternative designs that minimize or avoid the proposed impact, and such other information as District staff reasonably may request.	5	REQUIRED EXHIBITS. The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11”x17”. (a) Construction plans and specifications. (b) Analysis prepared by a professional engineer or qualified hydrologist showing the effect of the project on hydraulic capacity and water quality. (c) A temporary and permanent erosion control plan. (d) Information necessary to evaluate impacts under paragraph 3(f), including at least two alternative designs that minimize or avoid the proposed impact(s), and such other information
6	FAST-TRACK PERMIT. A public applicant may obtain a fast-track permit to replace a structure within a waterbody with a structure of substantially equal hydraulic and, as applicable, navigational capacity. The public notice under section 6 of the Procedural Requirements Rule and the requirements of paragraphs 3(f) do not apply if the applicant is fast-track eligible.	N/A	N/A
7	MAINTENANCE. A declaration or other recordable instrument in a form acceptable to the District, providing for maintenance of hydraulic and navigational capacity in perpetuity, must be recorded in the office of the county recorder or registrar before a permit will issue. In lieu of recordation, a public permittee, or a permittee without a property interest sufficient for recordation, may assume the maintenance obligation by means of a written agreement with the District. The agreement shall state that if the ownership of the structure is transferred, the permittee will require the transferee to comply with this subsection.	6	MAINTENANCE. A declaration or other recordable instrument stating terms for maintenance of hydraulic and navigational capacity and approved by the District shall be recorded in the office of the county recorder or registrar before activity under the MCWD permit commences. In lieu of recordation, a public permittee or a permittee without a property interest sufficient for recordation may assume the maintenance obligation by means of a written agreement with the District. The agreement shall state that if the ownership of the structure is transferred, the public body shall require the transferee to comply with this subsection.

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 7. Wetland Protection**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> a. Protect and enhance the quantity, quality and biological diversity of Minnesota’s wetlands by limiting direct and indirect impacts, requiring effective mitigation of impacts, and fostering the restoration of diminished or drained wetlands; b. Monitor mitigation and restoration actions of regulated parties so that high quality and diverse wetland resources are established and sustained; and c. Coordinate with local, state and federal governments, so that regulatory oversight of wetland resources is effective and efficient under the Minnesota Wetland Conservation Act (MnWCA), related state and federal laws, municipal ordinances, and these rules. 	1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ul style="list-style-type: none"> (a) Achieve no net loss in the quantity, quality and biological diversity of Minnesota’s existing wetlands; (b) Increase the quantity, quality and biological diversity of Minnesota’s wetlands by restoring or enhancing diminished or drained wetlands; (c) Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands; (d) Minimize direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands; (e) Rectify the impact of any such activity by repairing, rehabilitating, or restoring the affected wetland environment; (f) Reduce or eliminate the impact of such activity over time by preservation and maintenance operation during the life of the activity; (g) Compensate for the impact on the wetlands by restoring a wetland; (h) Compensate for the impact on the wetlands by replacing or providing substitute wetland resources or environments; and (i) Promote competent
2	<p>APPLICABILITY.</p> <ul style="list-style-type: none"> a. The MnWCA is administered by a local government unit (LGU), as that term is defined at Minnesota Statutes §103G.005, subdivision 10i. Within a given municipality, either the District or the municipality is the LGU. Where the District is the LGU, it will administer the MnWCA in accordance with Minnesota Statutes chapter 103G and Minnesota Rules chapter 8420, as amended, except as provided in subsection 2.c, below. b. Pursuant to Minnesota Rules 8420.0233 and its own authority, the District regulates certain excavation within wetland under section 3 of this rule, and imposes requirements for vegetated buffer adjacent to wetland and public waters wetlands under sections 4 through 6 of this rule. The District applies these sections of the rule throughout the watershed, and not only where the District is the MnWCA LGU. 	2	<p>REGULATION UNDER WCA AND WATERSHED LAW. The District regulates activity impacting wetlands pursuant to the WCA and the Watershed Law. A permit for activities impacting wetlands or requiring wetland buffers is required as follows:</p> <ul style="list-style-type: none"> (a) In municipalities where the District is the local government unit under the WCA, a permit is required from the District for any draining or filling of wetlands, or excavation in the permanently and semipermanently flooded areas of type 3, 4, or 5 wetlands, and in all wetland types if the excavation results in filling, draining, or conversion to nonwetland. The WCA, as amended, and its implementing rules as set forth in Minnesota Rules chapter 8420, as amended, specifically including sequencing requirements and all exemptions, are incorporated as a part of this rule. Work affecting a wetland that qualifies as no-loss under the WCA and work affecting an incidental wetland, as defined in the WCA, do not require a permit under this rule. Wetland replacement, where permitted, shall comply with section 3, Wetland Replacement, of this rule. (b) A permit is required from the District pursuant to the excavation and buffer provisions in sections 4, Excavation, and 5, Buffer, of this rule, which are adopted under the District’s watershed law authority and apply whether or not the District is the WCA local government unit. Pursuant

			to this authority and section 4, Excavation, the District requires a permit for excavation in any type of wetland, except where specifically exempted by the WCA or when the work meets no-loss criteria under the WCA. No permit under this rule is required for excavation in an incidental wetland, as defined in the WCA.
		5b	Buffer width will be determined in accordance with section 6, Buffer Width, of this rule.
2c	Notwithstanding replacement location provisions of the MnWCA, project-specific replacement for any wetland impact subject to District permitting under this rule must be sited in the following order of priority: (1) within the same District subwatershed as the affected wetland; (2) within the Minnehaha Creek watershed; (3) within the same eight-digit Hydrologic Unit Code watershed.	3	WETLAND REPLACEMENT. (a) Project-specific replacement wetland must be sited in the following order of priority, which replaces the siting priority in Minnesota Rules section 8420.0522, subpart 7, as it may be amended: (1) On site; (2) Within the same subwatershed as the affected wetland (see Appendix 1); (3) In the Minnehaha Creek watershed; (4) In the same eight-digit Hydrologic Unit Code watershed. (b) Pursuant to Minnesota Rules section 8420.0522, subp.7, as it may be amended, when reasonable, practical and environmentally beneficial replacement opportunities are not available in a siting priority area in subsection 3(a), providing replacement priority areas, the applicant may seek opportunities at the next level. When neither replacement opportunities nor privately banked credits are available in any priority area, the applicant may comply with this section through the purchase of banked credits from the District at the cost to the District to establish credits, so long as the District has determined that sufficient credits are available.
3a	EXCAVATION. As stated at Minnesota Rules 8420.0105, subpart 1, the MnWCA applies to excavation in the permanently and semipermanently flooded areas of type 3, 4, or 5 wetland, and in any wetland type if the excavation results in filling, draining, or conversion to nonwetland. Under this section 3, the District regulates all other excavation in wetland, except for incidental wetland as that term is defined at Minnesota Rules 8420.0105, subpart 2.D..	4a	EXCAVATION. Excavation in wetlands is subject to the following requirements. (a) Excavation is governed by the substantive and procedural standards, criteria and requirements set forth in the WCA, as amended, and the rules implementing the WCA as set forth in Minnesota Rules chapter 8420, as amended, including all exemptions, with the exception that replacement for excavation not subject to the WCA shall be at the ratio of 2:1. Excavation in incidental wetland is not subject to the requirements of this section. The priority siting requirements of section 3 of this rule, Wetland Replacement, apply to replacement of excavated wetland under this section.
3b	District regulation under subsection 3.a will be administered in accordance with Minnesota Rules chapter 8420, as amended, including no-loss and exemption standards. For the purpose of Minnesota Rules 8420.0522, subpart 4, the replacement ratio under subsection 3.a is two acres of replacement credit for each acre of wetland impacted.		
3c	Excavation subject to section 3 does not require replacement if the excavation is performed for public benefit and the applicant demonstrates that: (i) the wetland to be excavated is degraded; (ii) the activity would improve the wetland function and value; and (iii) the enhanced function and value are likely to be sustained. The demonstration is to be made using the Minnesota Routine Assessment Method (current version) or other method approved by the District. The excavation may not change wetland type, unless the applicant demonstrates that the public benefit otherwise cannot be achieved.	4b	Excavation of a wetland performed for public benefit, including excavation to remove or control invasive species, shall be deemed self-replacing if the applicant demonstrates that the wetland to be excavated is degraded; the proposed activity would increase the wetland's function and value, as determined using the current version of the Minnesota Routine Assessment Method or other method approved by the District; and the enhanced wetland function and value are likely to be preserved. Excavation must not result in a change of wetland type, unless the applicant demonstrates that public benefit is not obtainable absent such impact.
4a	VEGETATED BUFFER. A property owner must obtain a permit establishing a permanent vegetated buffer adjacent to wetland or public waters wetland in accordance with this section. a. A buffer is required as follows: 1. if an approval is issued under this rule for a wetland impact that requires replacement or if a permit is issued under the Waterbody Crossings and Structures rule for a new structure in a wetland or public water wetland, a buffer is required around the wetland; 2. If an activity requires a permit under the Stormwater Management rule, a buffer is required on that part of the wetland that is downgradient of the new or reconstructed impervious surface. 3. If a New Principal Residential Structure that increases site impervious surface is constructed, a buffer is required on that part of the wetland that is downgradient of the new or reconstructed impervious surface.	5a	BUFFER. (a) Any activity for which a permit is required under this Wetland Protection Rule, the Stormwater Management Rule or the District Waterbody Crossings and Structures Rule, and New Principal Residential Structure construction that increases the imperviousness of the subject parcel must provide for buffer adjacent to each wetland and public waters wetland. <i>To the extent the buffer requirement applies to a proposed New Principal Residential Structure, it will be applied in accordance with protections afforded a zoning nonconformity under state law so as not to unduly restrict the proposed action.</i> Buffer must be provided on that part of the wetland edge that is downgradient from the activity or construction and around each wetland that will be disturbed.

4b	Notwithstanding subsection 4.a, the District may approve a permit without a buffer requirement for an activity on public land: (i) that is subject to an equivalent conservation restriction; or (ii) where the buffer would conflict with a water-dependent recreational or educational public purpose served by the affected area. In either case, the District may impose reasonable conditions to secure equivalent wetland protection.	N/A	N/A
4c	Permanent wetland buffer monuments must be installed and maintained at the buffer edge. A monument must be placed at each lot line, with additional monuments placed at an interval of no more than 200 feet and as necessary to define a meandering boundary. If the land subject to monumentation is subdivided, additional monuments must be installed and maintained to meet this standard. Monument text will conform to District standard specifications and text, or receive written District approval. On public land or right-of-way, the monumentation requirement may be satisfied by the use of markers flush to the ground, breakaway markers of durable material, or a vegetation maintenance plan approved by the District in writing.	5d	A permanent wetland buffer monument shall be installed at each lot line where it crosses a wetland buffer, and where needed to indicate the contour of the buffer, with a maximum spacing of 100 feet. Language shall indicate the purpose of the buffer, restrictions, and the name and phone number of the Minnehaha Creek Watershed District. On public land, or right-of-way, the monumentation requirement may be satisfied by the use of a marker flush to the ground or breakaway markers of durable material. At the request of the applicant, the District shall provide wetland buffer monuments at production cost.
4d	As a condition of permit issuance, a property owner must file on the deed a declaration or other recordable instrument, in a form approved by the District, establishing the perpetual buffer. On public land or right-of-way, in place of a recorded declaration, the public owner may execute a written maintenance agreement with the District. The agreement will state that if land containing the buffer area is to be conveyed to a private party, the public owner must file on the deed a declaration conforming to this paragraph. The declaration or agreement will contain the Planting Plan required by section 6, below, as applicable.	5c	Buffers shall be documented by declaration or other recordable instrument approved by the District and recorded in the office of the county recorder or registrar before activity under the MCWD permit commences. A buffer on public land or right-of-way may be documented in a written agreement executed with the District in place of a recorded instrument. The agreement shall state that if the land containing the buffer is conveyed, the public body shall require the buyer to comply with this subsection.
		7b	For public land, right-of-way <i>or property held by a homeowner's association</i> , the applicant may comply with paragraphs 5(d), requiring buffer monumentation, 7(a), vegetation management, and section 10, Wetland Buffer Monitoring, of this rule by demonstrating that the buffer will be maintained in accordance with a written maintenance agreement with the District meeting the buffer monumentation, vegetation management and wetland buffer monitoring requirements in this rule, listing required elements of paragraph 9(h), the Wetland Buffer Maintenance Plan, including terms describing in detail the location of wetland buffer on the subject property and providing detailed protocols for buffer maintenance.
5a	<p>BUFFER WIDTH. Buffer width is based on the management class of the wetland, as established by the District's Functional Assessment of Wetlands, as updated. Alternatively, an applicant may determine management class by applying the Minnesota Routine Assessment Method (current version). A Base Width is established and may be reduced on the basis of favorable slope or soil condition, but not below the Base Width Minimum, each as follows:</p> <p>[See table in the proposed rule - widths are unchanged]</p> <p>The permitted width reductions are as follows: (i) For each five percent by which the average buffer slope is below 20 percent, the Base Width may be reduced by two feet. (ii) For each Hydrologic Soil Group grade above Type D by which the buffer soil is predominantly classified, the Base Width may be reduced by two feet.</p>	6a	<p>BUFFER WIDTH. The Base Buffer Width shall be determined by the management class of the wetland as evaluated by the District's Functional Assessment of Wetlands or by the current version of the Minnesota Routine Assessment Method (MnRAM). <i>Stormwater sensitivity parameters must be analyzed and results included in the evaluation, unless all stormwater flow to wetlands is managed in compliance with the bounce, inundation and runout-elevation control criteria in subsection 8(b) of the District's Stormwater Management Rule.</i></p> <p>[See table in the existing rule]</p>
		6b	(b) The Applied Buffer Width, the actual width of wetland buffer(s) required for a permitted project, shall be the Base Buffer Width as reduced by beneficial slope or soil conditions pursuant to the following formulas: (1) For every 5 percent decrease in average buffer slope from 20 percent, the Base Buffer Width may be reduced 2 feet. (2) For every grade of Hydrologic Soil Group above Type D for the predominant buffer soil condition, the Base Buffer Width may be reduced 2 feet. Reductions for beneficial slope or soil conditions shall not reduce the buffer width to less than the applicable Minimum Applied Buffer Width.
5b	An applicant is not obligated to acquire property to meet the applicable buffer width under this rule.	6e	(e) The Applied Buffer Width for Linear Reconstruction Projects shall be limited to the extent of available right-of-way. A buffer is not required for resurfacing of an existing road, sidewalk or trail that does not increase the area of impervious surface.

5c	Buffer width at any point may be reduced to no less than 50 percent of Base Width, provided total buffer area is maintained and the applicant demonstrates that the buffer will provide wetland and habitat protection at least equivalent to a buffer of uniform Base Width. In calculating total buffer area, buffer wider than 200 percent of Base Width is not considered.	6c	Buffer width may vary based on demonstrated site constraints, provided that a width of at least 50 percent of the Applied Buffer Width is maintained at all points, there is no reduction in total buffer area, and the buffer provides wetland and habitat protection at least equivalent to a buffer of uniform Applied Buffer Width. Buffer width averaging calculation will exclude any part of the buffer exceeding 200 percent of the Applied Buffer Width. The area of any path or trail allowed in the buffer will be added to the total area required by the Applied Buffer Width, except that construction of a trail or path of no more than 4 feet in width to provide riparian access through the buffer will not increase the required buffer area.
5d	The District may accept a shortfall in total buffer area if the applicant demonstrates that proposed buffer conditions will provide function and value equal to or greater than that which a buffer of required area would provide. The demonstration is to be made using the Minnesota Routine Assessment Method (current version) or other method approved by the District.	6d	The Applied Buffer Width may be further reduced by the District upon a demonstration by the applicant that the proposed buffer conditions clearly provide function and value equal to or greater than would be provided by a buffer of the applicable Applied Buffer Width, but may not be reduced to less than 50 percent of the applicable Applied Buffer Width.
5e	The buffer width for New Principal Residential Structures is 25 percent of the distance between the proposed structure at the point that it is nearest to the wetland and the wetland, or 25 feet, whichever is greater. Notwithstanding the foregoing, the required buffer will not exceed the Base Width or render a property unbuildable.	6f	The Applied Buffer Width for New Principal Residential Structures shall be limited to 25 percent of the distance between the existing structure at the point that it is nearest to the wetland and the wetland, or 25 feet, whichever is greater, provided that such a buffer shall not exceed the Base Buffer Width, and the buffer shall not render a property unbuildable.
6a	PROTECTING BUFFER SOIL AND VEGETATION. For buffer area not presently established with vegetation, the applicant will supply a Planting Plan in accordance with Section 7, below.	N/A	N/A
6b	Buffer vegetation may not be fertilized, mowed, cultivated, cropped, pastured or otherwise disturbed. No mulch, yard waste, fill, debris or other material may be placed within a buffer, temporarily or permanently. No excavation may occur in a buffer.	7a	WETLAND BUFFER VEGETATION. Buffer vegetation shall not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by District staff or when implemented pursuant to a written maintenance plan approved by the District. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface shall be placed within a buffer, except as provided in paragraph 6(c). No fill, debris or other material shall be excavated from or placed within a buffer.
6c	Notwithstanding paragraph 6.b: 1. pesticides and herbicides may be applied within a buffer in conformance with Minnesota Department of Agriculture rules and guidelines; 2. periodic cutting or burning to promote buffer health, action to address disease or invasive species, mowing for public safety, temporary disturbance to place or repair a utility, or other action to maintain or improve buffer quality is permitted if approved in writing by the District; 3. a road authority maintenance agreement may provide for mowing and brush cutting as required for public safety and inspection of drainageways, and may allow fertilizer and soil conditioning to address vegetation stress.		
6d	An applicant will not be required to remove an existing permanent structure or hard surface from the buffer area, if the structure or surface is in sound and functional condition. If feasible, buffer will be established upgradient of existing hard surface that is retained, to provide for the required width of vegetated land. No new structure or hard surface may be placed within a buffer, except that for access to the wetland, a path or trail of pervious or impervious surface, no more than four feet in width, may be located within a buffer and will be considered part of the buffer. The path or trail will reasonably minimize the loss of buffer area and will be designed to not concentrate or accelerate runoff to the wetland.	6c, 7a	[See sections 6c and 7a above]
6e	Before site disturbance, buffer area will be fenced to exclude construction operations and to prevent sediment movement into the buffer, unless the applicant demonstrates that it is necessary to work within the buffer and obtains District approval of a Planting Plan providing for establishment of native vegetation and conforming to section 7, below. The Planting Plan also must contain terms to control erosion and sediment and protect tree root zone during construction; minimize soil compaction; and provide for post-disturbance soil decompaction to a depth of 18 inches and incorporation of organic matter. The plan will specify that within tree drip line or critical root zone, or within 10 feet of a subsurface utility, the applicant will decompact solely by	7c	Buffer areas, or portions thereof, that are not vegetated or will be disturbed by grading or other site activities during construction shall be replanted and maintained according to the following standards: (1) Soils must be decompacted to a depth of 18 inches and organic matter must be incorporated into soils before revegetation. Decompaction shall be accomplished solely by incorporation of organic matter within the drip line or critical root zone of trees or within 10 feet of underground utilities. (2) Erosion/sediment control practices, including provisions of sections 5, Erosion Control Plan, and 9, Maintenance, of the District Erosion Control Rule, as appropriate,

	<p>incorporating organic material. Fencing and other protection measures must be removed when site vehicle and equipment operation is complete.</p>		<p>shall be used during buffer vegetation establishment. (3) Buffers shall be planted with a native seed mix and/or native plantings approved by the District. (4) Buffer maintenance and monitoring shall be performed in accordance with section 10, Wetland Buffer Monitoring, of this rule.</p>
7	<p>SUBMITTALS. The following are the elements of an application under this rule.</p> <p>a. If seeking a MnWCA approval, a completed Combined Joint Notification form. If not, a completed District standard application.</p> <p>b. A valid delineation report, conforming to MnWCA guidelines, for each wetland proposed to be disturbed, or that will be subject to a buffer under this rule. If the District is not the MnWCA LGU, the application must include the LGU decisions associated with the report. Where MnWCA does not require a delineation report, District staff may allow the report to be omitted, or limited to a part of the wetland boundary as needed for the permit decision.</p> <p>c. Site plan that shows and, by notation, describes:</p> <ol style="list-style-type: none"> 1. Lines and corners of contiguous tracts owned by applicant; 2. Delineation of site wetland; of areas of wetland to be disturbed, and of existing and proposed buffer; 3. Existing and proposed site elevation contours; 4. Proposed grading and other disturbance in wetland or buffer; 5. For wetland excavation, proposed location of spoils placement and specifications to stabilize and vegetate spoils; 6. Proposed buffer monument locations. <p>d. For impacts requiring replacement under this rule, a replacement plan conforming to Minnesota Rules chapter 8420.</p> <p>e. If required by section 6, above, a Planting Plan containing the following:</p> <ol style="list-style-type: none"> 1. Description and specification of seed and plant materials, including supplier and origin; 2. Bed preparation (for example, clearing, disking, raking, herbicide control, soil amendment or addition); 3. Seeding or planting method and application rate in pounds of seed per acre or plants per unit area; application rate must reflect if pure live seed (PLS) is to be used; 4. Measures for site protection and erosion prevention during establishment; 5. An inspection and maintenance schedule describing activities (watering, mowing, invasive species control, herbicide application, burning, etc.) for five years of establishment; 6. The criteria for buffer vegetation establishment. 	9	<p>REQUIRED EXHIBITS. The following exhibits shall accompany the Combined Joint Notification (CJN) form:</p> <p>(a) Complete delineation report, in accordance with the guidelines provided by the Board of Water and Soil Resources, for any wetland(s) that will be impacted or require a buffer. The report must be approved by the WCA Local Government Unit (LGU). The report must include a copy of the Notice of Decision for all projects occurring in cities where the District is not the LGU.</p> <p>(b) Site plan, one set - full size and one set - reduced to a maximum size of 11" x 17", showing:</p> <ol style="list-style-type: none"> (1) Property lines and corners and delineation of lands under ownership of the applicant; (2) Existing and proposed elevation contours; including the existing runout elevation and flow capacity of the wetland outlet; (3) Boundaries of all wetlands on the property; (4) Boundaries of all existing or proposed buffers, along with proposed grading and other disturbance in existing or proposed buffers; (5) Proposed locations of buffer signage; and (6) Area of the wetland portion to be filled, drained, or excavated. <p>(c) Identification and area of the total watershed area presently contributing stormwater runoff to the wetland.</p> <p>(d) A replacement plan, if required, meeting all the requirements of Minnesota Rules chapter 8420, as amended. Replacement plans for wetland impacts not subject to the WCA must meet these same requirements.</p> <p>(e) For projects involving wetland excavation (including projects deemed self-replacing under paragraph 4(b)), the application shall identify spoils placement on upland and specify how the deposited materials will be stabilized and vegetated.</p> <p>(f) Information showing whether the subject wetland is protected by either the State or municipality or both.</p> <p>(g) Wetland Buffer Planting Plan, if required under section 7, Wetland Buffer Vegetation, including:</p> <ol style="list-style-type: none"> (1) Proposed seed mixes and other plant materials to be used; (2) Seed or plant supplier and origin of materials; (3) Seed/planting bed preparation (i.e. disking, raking, clearing, herbicide control, topsoiling, etc.); (4) Seeding and/or planting method (i.e. broadcast, drill, etc.); (5) Application rate in either pounds of seed per acre and/or the number of plants per unit area if using plugs or seedlings. Specify if using pure live seed (PLS). Higher application rates will be required if not using PLS; (6) Detailed erosion control plan for establishing wetland buffer. <p>(h) Wetland Buffer Maintenance Plan, if required under section 7, Wetland Buffer Vegetation, including:</p> <ol style="list-style-type: none"> (1) Schedule of establishment and maintenance activities for the first five years of establishment (i.e. watering, burning, mowing, herbicide control, etc.); (2) Identification of probable invasive species and steps that will be taken to control the spread of invasive species;

			(3) Inspection methods and schedule for monitoring invasive species and documenting native species germination and establishment.
8	<p>REPORTING.</p> <p>For five years after buffer is seeded or planted, before January 1 of each year, a property owner subject to a Planting Plan will submit an annual report to the District. An owner may request that the District perform the wetland buffer inspection and produce the report for a fee equal to the District's cost.</p> <p>a. The annual report will:</p> <ol style="list-style-type: none"> 1. Describe dominant plant species within the buffer, estimate their percent cover, and compare to the approved planting/seeding plan; 2. Include a site plan that delineates the buffer and shows areas of bare soil, erosion, invasive vegetation, disturbed vegetation or encroachment; 3. Describe management strategies to be used in the next growing season to make progress toward the establishment goal; 4. Include color photographs taken during growing season, with vantage points indicated on the site plan. <p>b. If, after the third annual report, the District finds that the buffer meets establishment standards and that further active monitoring and management are not necessary, it may in writing excuse the property owner from further inspection, maintenance and reporting.</p> <p>c. If, after the fifth annual report, the District finds that the buffer has not met establishment standards, it may extend inspection, maintenance and reporting obligations, and may require amendment of the declaration or agreement for that purpose.</p>	10	<p>WETLAND BUFFER MONITORING.</p> <p>For buffer areas required to be established or replaced under subsection 7(c), setting standards for buffer establishment and maintenance:</p> <p>(a) Upon final establishment, wetland buffers shall contain little or no bare soil and shall exhibit a dominance of native vegetation.</p> <p>(b) The applicant shall submit to the District an annual Wetland Buffer Inspection Report on or before January 1 of each year for five years. Alternatively, applicants may request that the District perform the Wetland Buffer Inspection and produce the report for a fee equal to the District's actual costs to perform the work.</p> <p>(1) The applicant may submit a written request to cease annual monitoring by year three if the wetland buffer is well established pending District approval.</p> <p>(2) If the wetland buffer is poorly established at the end of the five year monitoring period, the District may require continued monitoring and maintenance.</p> <p>(c) The annual Wetland Buffer Inspection Report shall include:</p> <p>(1) Site plan showing:</p> <ol style="list-style-type: none"> i. Location of permitted buffer area; ii. Areas of bare soil or erosion; iii. Areas of invasive vegetation; and iv. Location and type of any encroachments on the buffer (structures, unapproved mowing, trails, etc.) <p>(2) Color photos of the wetland buffer taken during the growing season. Vantage points for these photos shall be labeled on the site plan.</p> <p>(3) Description of buffer vegetation including:</p> <ol style="list-style-type: none"> i. List of dominant plant species and their estimated percent cover. ii. Comparison of the species present to the approved planting/seeding plan. <p>(4) A written narrative that identifies the management strategies that will be utilized during the upcoming growing season to manage invasive species, improve percent vegetative cover and species diversity, and mitigate any encroachments on the buffer.</p>
9	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances Rule is a condition of permit issuance.</p>	8	<p>FINANCIAL ASSURANCE. A performance bond, letter of credit or other financial assurance, consistent with the District Financial Assurance Rule, may be required for any project involving wetland replacement or replanting of wetland buffers. The financial assurance shall be maintained until the monitoring period has ended and District has approved the wetland replacement or establishment of the buffer.</p>

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 8. Shoreline and Streambank Stabilization**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

Key:
Blue & bold font - Key language that represents a substantive change from current language
Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping)
<i>Italics</i> - removed text

Revised Section	Revised Language	Current Section	Current Language
1	POLICY. It is the policy of the Board of Managers to: a. Limit disturbance to the natural shoreline or streambank; b. Where stabilization is needed, promote use of bioengineering and similar naturalized methods; c. Require that stabilization methods follow sound engineering principles and limit impact on water quality and the ecological integrity of the riparian environment.	1	POLICY. It is the policy of the Board of Managers to: (a) Preserve the natural appearance of shoreline and streambank areas; (b) Encourage and foster bioengineering, landscaping and preservation of natural vegetation as preferred means of stabilizing shorelines and streambanks; (c) Assure that improvement of shoreline and streambank areas to prevent erosion complies with accepted engineering principles in conformity with Minnesota Department of Natural Resources construction guidelines; and (d) Preserve water quality and the ecological integrity of the riparian environment, including wildlife, fisheries, and recreational water resources.
2a	APPLICABILITY. A permit is required to disturb the bank of a waterbasin or watercourse, below the ordinary high water level, for the purpose of stabilization, or to serve an amenity or other beneficial purpose. Improvements subject to this requirement include, but are not limited to, bioengineering practices, riprap, retaining walls, boat ramps and sandblankets.	2a	REGULATION. No person shall install an improvement or alteration of the shoreline of a water basin or the bank of a watercourse, including but not limited to a bioengineered installation, riprap, a retaining wall, a sand-blanket or a boat ramp, without first securing a permit under this rule and providing a financial assurance pursuant to the District Financial Assurance Rule. Planting of vegetation not intended to provide deep soil structure stability does not require a permit under this rule.
2b	b. Notwithstanding subsection 2.a, a permit is not required to: 1. Maintain a functioning improvement, if no material is added and the bed or bank is not disturbed; or 2. Plant vegetation not intended to provide deep soil structure stability. 3. Place riprap below a culvert or outfall for energy dissipation purposes if the riprap complies with MnDOT Standard Plates 3133, 3134, and 3139 and appropriate erosion and sedimental controls are utilized.	2b	All permit applications submitted under this rule, except applications for maintenance of an existing improvement that has not degraded to a natural state, shall be required to include a detailed erosion intensity calculation of the shoreline or streambank in accordance with section 3, Shoreline Erosion Intensity Calculation (for shorelines), or section 4, Streambank Erosion Intensity Calculation (for streambanks), of this rule.
		2c	A permit under this rule is required for maintenance of an existing riprap or otherwise hard-armored shoreline or streambank that involves the addition of new material or structural change to the improvement.
2c	A Fast Track permit may be issued for shoreline stabilization projects that conform to the following requirements: 1. An application for shoreline stabilization that conforms to subsection 3.a and section 4; 2. An application for a sandblanket that conforms to section 7.	2d	A fast track permit may be issued for shoreline stabilization projects that conform to the requirements in section 6, Criteria for Stabilization Techniques, of this rule.
		2f	A fast track permit may be issued for routine sandblanket projects that conform to the requirements set forth in sections 9, Criteria for Laying Sandblankets, and 10, Sandblankets Required Exhibits, of this rule.
3a	EROSION INTENSITY STANDARD. a. An applicant must perform an erosion intensity calculation to support an application for a stabilization practice other than a biological practice: (i) where a bioengineering or structural practice does not exist, has degraded to a natural condition, or is proposed to be extended to additional shoreline or streambank; or (ii) where an existing practice is proposed to be upgraded	3	SHORELINE EROSION INTENSITY CALCULATION. (a) Applications for shoreline stabilization shall be required to complete the Erosion Intensity Scoresheet to document the shoreline erosion intensity (low, medium, high). (b) The proposed shoreline stabilization practice shall be consistent with the shoreline erosion intensity calculated (low, medium, high).

	<p>to a bioengineering or structural practice. A shoreline or streambank stabilization design must conform to erosion intensity as follows:</p> <ol style="list-style-type: none"> 1. Low erosion intensity: must use a biological stabilization practice; 2. Medium erosion intensity: may use a biological or bioengineering stabilization practice; 3. High erosion intensity: may use a biological, bioengineering or structural stabilization practice. <p>Erosion intensity is determined in accordance with subsection 5.a, below.</p>		<ol style="list-style-type: none"> (1) Low erosion intensity shorelines shall utilize biological stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule. (2) Medium erosion intensity shorelines shall utilize biological or bioengineering stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule. (3) High erosion intensity shorelines shall utilize biological, bioengineering or structural stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule.
3b	<p>An applicant may deviate from the requirement of subsection 3.a on demonstrating that the intensity calculation does not accurately capture the erosion potential of the shoreline or streambank because of site-specific conditions. In this case, the applicant must use a design adequate for the erosion potential that best fulfills the policies of section 1, above.</p>	2e	<p>Shoreline or streambank stabilization projects that do not utilize a stabilization practice consistent with the erosion intensity calculation shall be required to document compliance with the design flexibility/minimal impact standard in section 5, Design Flexibility. Such projects shall be subject to the public notice requirements of the District Procedural Requirements Rule.</p>
		5	<p>DESIGN FLEXIBILITY. Where an applicant believes that, as a result of site specific conditions, the shoreline erosion intensity as calculated in section 3, Shoreline Erosion Intensity Calculation, or the streambank erosion intensity as calculated in section 4, Streambank Erosion Intensity Calculation, may inaccurately predict the degree of erosion, the District may approve alternative stabilization techniques if the applicant provides sufficient evidence to demonstrate that the proposed stabilization practice represents the minimal impact solution with respect to all other reasonable alternatives.</p>
4a	<p>STANDARDS FOR STABILIZATION DESIGNS.</p> <p>All stabilization designs other than retaining walls must conform to the following:</p> <ol style="list-style-type: none"> 1. The site condition must show that a stabilization practice is needed to prevent erosion or restore shoreline or streambank. 2. The slope must not exceed 3:1 (horizontal: vertical), unless impractical due to site-specific conditions. <ol style="list-style-type: none"> a. Encroachment of a shoreline design lakeward must be minimized, should not exceed five feet, and may not exceed 10 feet. b. Encroachment of a streambank design into the channel must be minimized, may not reduce channel cross-section and, must meet the No-Rise standard. 3. The design must reflect the engineering properties of the underlying soils and any soil corrections or reinforcements. For a shoreline, the design must conform to engineering principles for dispersion of wave energy and resistance to deformation from ice pressures and movement. For a streambank, design must conform to engineering principles for the hydraulic behavior of open channel flow;" 4. The design of a new installation must follow the natural shape of the shoreline or streambank and justify native vegetation disturbance within the stabilization zone. 5. Work below top of bank must use a flotation sediment curtain installed and maintained in accordance with best practices. The curtain must be removed on the completion of such work after sediment has settled. 	6a	<p>CRITERIA FOR STABILIZATION TECHNIQUES.</p> <p>General criteria:</p> <ol style="list-style-type: none"> (1) The District will permit the installation of structural stabilization practices only where there is a demonstrated need to prevent erosion or to restore eroded shoreline/streambank; (2) <i>Removal of native vegetation within the shoreline/streambank stabilization zone shall be limited in accordance with the following provisions:</i> <ol style="list-style-type: none"> i. <i>Clear cutting shall be prohibited except within the access corridor;</i> ii. <i>Native vegetation shall be preserved outside of the access corridor as much as practicable and, where removed, shall be replaced with other vegetation that is equally effective in retarding runoff and preventing erosion.</i> (3) Stabilization practices shall be installed at a 3:1 slope or flatter where practical and feasible. Practices proposed at slopes steeper than 2:1 shall be evaluated as retaining walls in accordance with section 12, Criteria for Other Shoreline Improvements, of this rule; (4) Horizontal encroachment from a shoreline shall be the minimum amount needed and shall not interfere unduly with water flow. Under normal conditions, hard armoring inert material, such as riprap, or other fill shall be placed no more than 5 feet waterward of a shoreline, measured from the OHW. The maximum encroachment waterward of the OHW is 10 feet. Encroachment from streambanks shall be minimized to the greatest extent practical to limit hydraulic impacts; (5) Streambank stabilization shall not reduce the cross sectional area of the channel nor result in a net increase in the flood stage upstream or at the site of the streambank stabilization practice <i>unless it can be demonstrated to not exacerbate existing high-water conditions;</i> (6) Shoreline/streambank stabilization practices shall conform to the natural alignment of the bank (e.g., maintain an undulating or meandering shoreline/streambank); (7) The design shall reflect the engineering properties of the underlying soils and any soil corrections or reinforcements. For a shoreline, the design shall conform to engineering principles for dispersion of wave energy and resistance to deformation from ice pressures and movement. For a streambank, design shall conform to engineering principles for the hydraulic behavior of open channel flow; (8) For sites involving aquatic plantings or aquatic plant removal, a separate Aquatic Plant Management permit shall be obtained from the Department of Natural Resources, when applicable; (9) Any work below the normal water level shall be encircled by a flotation sediment curtain. The curtain shall be constructed and maintained as illustrated in "Protecting Water Quality in Urban areas – Best Management Practices for Minnesota" (MPCA 1989). The barrier shall be removed upon completion of the

			work after disturbed sediment has settled; (10) All shoreline/streambank stabilization applications shall submit the required exhibits as set forth in section 7, Required Exhibits for Shoreline/Streambank Stabilization, of this rule.
4b	In addition to the standards of subsection 4.a, biological and bioengineering designs also must conform to the following: 1. Incorporated live plantings must be aquatic or upland species native to Minnesota. 2. Planting must follow sound practice to limit soil disturbance and provide for successful establishment. 3. Wave barriers, if used, may not be placed beyond a water depth of three feet, may not obstruct navigation, and must be removed within two years. 4. Structural elements within an approved bioengineering designs must conform to subsection 4.c, paragraphs 1 and 2, below.	6b	Criteria for biological and bioengineering techniques: (1) Live plantings incorporated into the shoreline or bank shall be native aquatic and/or native upland vegetation known to occur in the North Central Hardwood Forest eco-region of Minnesota (<i>refer to the Minnesota Department of Natural Resources "Lakescaping for Wildlife and Water Quality" and the Minnesota Pollution Control Agency "Plants for Stormwater Design"</i>); (2) Vegetative treatments shall be installed in accordance with the <i>Natural Resource Conservation Service (NRCS) "Engineering Field Handbook Chapter 16"</i> ; (3) If wave barriers are utilized, they shall be located within the 3 foot water depth or less and may not create an obstruction to navigation. Wave barriers shall be removed within 2 years of the installation.
4c	In addition to the standards of subsection 4.a, structural designs also must conform to the following: 1. Riprap may not exceed the top of bank, or two feet above the 100-year high water elevation, whichever lower. 2. Riprap must be durable stone that meets size and gradation standards of MnDOT Class III or IV riprap. Toe boulders may be up to 30 inches in diameter but must be at least 50 percent buried. 3. A transitional granular filter must be placed between the native shoreline and riprap to prevent erosion of fine-grained soils. A nonwoven geotextile filter fabric must be placed beneath the granular filter. 4. A practice should include plantings between boulders and native upland plantings where feasible, to slow runoff and limit erosion. Deviation from paragraph 4.c.3 is acceptable as indicated for proper plant establishment.	6c	Criteria for structural stabilization: (1) Hard armoring inert material, such as riprap, shall be considered wetland fill only if proposed to be placed within an area identified as a wetland; (2) Riprap shall extend no higher than the top of the bank, or two feet above the 100-year high water elevation, whichever is lower; (3) Riprap materials shall be durable stone meeting the size and gradation requirements of MnDOT Class III or IV riprap. Toe boulders shall be at least 50 percent buried and may be as large as 30 inches in diameter; (4) A transitional granular filler <i>meeting requirements of MnDOT 3601.B</i> , at least 6 inches in depth, shall be placed between the native shoreline and the riprap to prevent erosion of fine grained soils. A geotextile filter fabric <i>meeting the requirements of MnDOT 3733</i> shall be placed beneath the granular filler where appropriate; (5) Structural stabilization practices, including riprap, are recommended to include plantings between individual boulders or native upland plantings to retard runoff and prevent erosion wherever feasible and practical.
4d	A structural design with a slope of 2:1 (horizontal: vertical) or steeper is considered a retaining wall and must conform to the following: 1. A new retaining wall, or a retaining wall repair/reconstruction that increases floodplain encroachment beyond what is needed for structural soundness, is permitted only under the Variances and Exceptions Rule. The applicant must demonstrate that there is no adequate alternative. 2. The design must be supported by a structural analysis, prepared by a professional engineer licensed in the State of Minnesota to practice civil engineering, that shows the wall will withstand expected ice and wave action and earth pressures, and otherwise must conform to sound engineering principles. 3. The permit will require that an as-built survey, prepared by a registered land surveyor, be filed with the District.	6d	A structural design with a slope of 2:1 (horizontal: vertical) or steeper is considered a retaining wall and must conform to the following: (1) A new retaining wall, or a retaining wall repair/reconstruction that increases floodplain encroachment beyond what is needed for structural soundness, is permitted only under the Variances and Exceptions Rule. The applicant must demonstrate that there is no adequate alternative. (2) The design must be supported by a structural analysis, prepared by a professional engineer licensed in the State of Minnesota to practice civil engineering, that shows the wall will withstand expected ice and wave action and earth pressures, and otherwise must conform to sound engineering principles. (3) The permit will require that an as-built survey, prepared by a registered land surveyor, be filed with the District.
		10	CRITERIA FOR RETAINING WALLS. (a) A new retaining wall, or repair/reconstruction of an existing retaining wall that increases floodplain encroachment beyond that required by technically sound and accepted repair/reconstruction methods, is permitted only pursuant to a variance or an exception under the District Variance Rule. The applicant must demonstrate that there is no adequate stabilization alternative. (b) Wooden seawalls and/or steel sheetpiling retaining walls shall comply with accepted engineering principles. (c) The applicant shall submit a structural analysis prepared by a professional engineer registered in the State of Minnesota, in the practice of civil engineering, showing that the wall will withstand expected ice and wave action and earth pressures. (d) The applicant shall submit a survey prepared by a registered land

4e	Neither riprap conforming to paragraph 2.b.3, above, nor a stabilization design conforming to section 4, constitutes floodplain fill for the purpose of the Floodplain Alteration rule.	N/A	N/A
5a	<p>SUBMITTALS FOR STABILIZATION DESIGNS.</p> <p>The following items must be submitted with an application for shoreline or streambank stabilization.</p> <p>a. If required by subsection 3.a, an erosion intensity calculation prepared on a form maintained by the District Board of Managers. The calculations are as follows:</p> <ol style="list-style-type: none"> 1. For shoreline designs, the applicant must calculate erosion intensity as outlined on the District form which is available on the District's website. 2. For streambank designs, the applicant must calculate bank-full stream velocity and shear stress by the following equations and the higher of the two intensity scores will be used: <ol style="list-style-type: none"> i. Bankful stream velocity <p>Manning's equation: $v = \text{Average velocity of flow (feet/sec)}$ $Q = \text{Bankful flow (cubic feet/sec)}$ $A = \text{Area of flow (square feet)}$ $n = \text{Manning's number}$ $R = \text{Hydraulic radius (feet)}$ $S = \text{Slope of channel bottom (rise/run)}$</p> <p>Velocity corresponds to erosion intensity as follows: Below 2 fps Low erosion intensity 2-6 fps Medium erosion intensity Above 6 fps High erosion intensity</p> ii. Shear stress on the streambank <p>$\tau = \text{Shear stress (pounds / square feet)}$ $d = \text{Bankful flow depth (feet)}$ $\mu = \text{Unit weight of water (62.4 pounds / cubic feet)}$ $S = \text{Slope of channel bottom (rise/run)}$</p> <p>Shear stress corresponds to erosion intensity as follows: Below 2.5 lb/sq ft Low erosion intensity 2.5 to 5 lb/sq ft Medium erosion intensity Above 5 lb/sq ft High erosion intensity</p>	7a	REQUIRED EXHIBITS FOR SHORELINE/STREAMBANK STABILIZATION. (a) Erosion intensity calculations from section 3, Shoreline Erosion Intensity Calculation, or 4, Streambank Erosion Intensity Calculation, of this rule, whichever is applicable, or materials necessary to make the demonstration required in section 5, Design Flexibility.
		4a	<p>STREAMBANK EROSION INTENSITY CALCULATION.</p> <p>Applications for streambank stabilization shall be required to include the calculations detailed below to document bankfull stream velocity and shear stress:</p> <p>(1) Bankfull stream velocity</p> <p>i. Manning's equation: (see rule text for equation) $v = \text{Average velocity of flow (feet/sec)}$ $Q = \text{Bankfull flow (cubic feet/sec)}$ $A = \text{Area of flow (square feet)}$ $n = \text{Manning's number}$ $R = \text{Hydraulic radius (feet)}$ $S = \text{Slope of channel bottom (rise/run)}$</p> <p>(2) Shear stress on the streambank</p> <p>$\tau = d \times \mu \times S$ $\tau = \text{Shear stress (pounds / square feet)}$ $d = \text{Bankfull flow depth (feet)}$ $\mu = \text{Unit weight of water (62.4 pounds / cubic feet)}$ $S = \text{Slope of channel bottom (rise/run)}$</p>
		4b	<p>The proposed streambank stabilization practice shall be consistent with the shear stress calculated (low, medium, high).</p> <p>(1) Low erosion intensity streambanks are those where the shear stress calculated is less than or equal to 2.5 lb per square foot and shall utilize biological stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule.</p> <p>(2) Medium erosion intensity streambanks are those where the shear stress calculated is between 2.5 and 5 lb per square foot and shall utilize biological or bioengineering stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule.</p> <p>(3) High erosion intensity streambanks are those where the shear stress calculated is greater than 5 lb per square foot and shall utilize biological, bioengineering or structural stabilization practices in accordance with section 6, Criteria for Stabilization Techniques, of this rule.</p>
5b	Photographs documenting existing site condition and need for stabilization. Images must be during growing season and must depict, in profile, bank vegetation and slope condition of the subject and adjacent properties, and the existence of emergent or floating vegetation adjacent to the subject property.	7b	Photographs of the project site, showing existing conditions.
5c	<p>Site plan including:</p> <ol style="list-style-type: none"> 1. Surveyed locations of ordinary high water level, 100-year high water elevation, and property lines in plan view. 2. Landward edge of the stabilization zone and elevation contours within the zone, of no more than two-foot resolution, referenced to NGVD 29 datum. 3. Location of the proposed installation and proposed lineal dimensions in plan view. 4. Proposed method of access. 5. Upland baseline parallel to the shoreline/streambank showing distances to the OHW line at 20-foot stations. The baseline endpoints must be referenced to three fixed features, with 	7c	<p>Site plan showing:</p> <ol style="list-style-type: none"> (1) Survey locating the existing ordinary high water (OHW) elevation, existing shoreline or streambank, 100-year high water elevation, and location of property lines; (2) Elevation contours of the upland within 15 feet of the OHW and referenced to accepted datum; (3) Location of the shoreline/streambank stabilization zone and access corridor; (4) Location of existing trees and shrubs within the shoreline/streambank stabilization zone and an indication of whether they are to be removed or retained; (5) Plan view of locations and lineal footage of the proposed shoreline/bank stabilization treatment; and (6) The location of an upland baseline parallel to the shoreline/bank with stationing. The baseline shall be

	measurements shown and described. The baseline must be staked, and stakes maintained to project completion.		staked in the field and maintained in place until project completion. Baseline origin and terminus each shall be referenced to three fixed features, with measurements shown and described on the plan. Perpendicular offsets from the baseline to the OHW shall be measured and distances shown on the plan at 20 foot stations.
5d	Cross-section with horizontal and vertical scales, depicting or describing: 1. The bank to be stabilized, with OHW level and 100-year high water elevation of the associated waterbody. 2. Description of underlying soils. 3. The proposed stabilization technique, finished slope and distance lakeward from OHW line. 4. Specification of all structural, bioengineered, plant and seed material to be installed.	7d	Cross section, drawn to scale, with the horizontal and vertical scales noted on the drawing, detailing: (1) The existing bank, OHW, and 100-year high water elevation; (2) The proposed stabilization technique, finished slope, and distance lakeward of the OHW; (3) Material specifications; (4) Description of the underlying soil materials
5e	Erosion and sedimentation control and site stabilization plans incorporating best practices.	7e	Specification of erosion control and site stabilization practices.
6a	ADDITIONAL SUBMITTALS. In addition to the items in section 5, the following items must be submitted with the application for shoreline or streambank stabilization, as applicable. a. In addition to the items in section 5, a streambank stabilization design submittal also must include: 1. Cross-sectional, longitudinal and plan views of channel in existing and proposed conditions. 2. Identification of bank-full indicators and in-stream features such as woody debris, riffles and pools. 3. Description of existing slope, bank, channel and adjacent wetland soils and vegetation.	7h	For streambank stabilization: (1) Cross sectional view of stream channel in existing and proposed conditions; (2) Longitudinal view of stream channel in existing and proposed conditions; (3) Plan view of stream channel in existing and proposed conditions; (4) Identification of bankfull indicators; (5) Documentation of existing soils, wetlands, vegetation, slopes, bank and channel material; (6) Identification of in-stream features such as woody debris, riffles and pools, etc.
6b	A biological or bioengineering design also must include a vegetation establishment plan that includes: 1. A plant list with common and scientific names, seed mix specifications, quantities and origin of all material. 2. Methods, schedule and parties responsible to establish and maintain vegetation for three years after installation, including invasive species control and vegetation replacement. c. A bioengineering design also must detail the location of all armoring or inert material and describe how the use of such material has been minimized to the extent practical. d. A design involving aquatic planting or plant removal must include a copy of the Minnesota Department of Natural Resources plant management permit application, if applicable.	7f	For biological and bioengineering stabilization practices, a Vegetation Establishment Plan, including: (1) A plant list with common and scientific names, seed mix specifications, quantities and origin of all material; and (2) Specification of the methods, schedule and party responsible for ensuring establishment and maintenance of the vegetation for the three years following installation or construction. The plan shall include the control of invasive species and replacement of vegetation as necessary.
		7g	For bioengineering: (1) Detail the location of all hard armoring inert material, such as riprap, to be utilized; (2) Provide a written narrative explaining how the use of hard armoring inert
7	STANDARDS FOR SANDBLANKETS. a. An application for a sandblanket must include the following: 1. Site plan showing ordinary high water line, 100-year high water line (if available), property lines, and elevation contours of upland adjacent to application area, referenced to NGVD (1929 datum). 2. Existing and proposed cross-sections and topographic contours, at intervals no greater than 1.0 foot, within application area. b. The application must conform to the following standards: 1. Sand or gravel, before being spread, must be clean excavated or properly washed material, free of any hazardous or petroleum substance, and of any noxious or regulated invasive species of plant or animal, and any seed or larva thereof. 2. The sand or gravel may not exceed a depth of six inches; may not exceed 50 feet parallel to the shoreline or one-half of lot width, whichever less; and may not extend more than 10 feet waterward of the ordinary high water mark. 3. A site may not receive two District permits within four years. The District will permit only two sandblanket applications at a given site. 4. Beaches operated by units of government for public use are exempt from paragraphs 7.b.2 and 3, but must be maintained to limit environmental impact to the extent reasonable.	8	CRITERIA FOR LAYING SANDBLANKETS. All permitted sandblanketing shall comply with the following standards: (a) The sand or gravel used must be clean prior to being spread. The sand must contain no toxins or heavy metal, as defined by the Minnesota Department of Natural Resources, and must contain no weed infestations such as, but not limited to, water hyacinth, alligator weed, and Eurasian watermilfoil, or animal life infestations such as, but not limited to, zebra mussels or their larva. Violators will be prosecuted to the full extent of the law. (b) The sand layer must not exceed six inches in thickness, 50 feet in width along the shoreline, or one-half the width of the lot, whichever is less, and may not extend more than 10 feet waterward of the ordinary high water mark. (c) Only one installation of sand or gravel to the same location may be made during a four-year period. After the four years have passed since the last blanketing, the location may receive another sandblanket. No more than two applications may be made at an individual project site. (d) Exception. Beaches which are operated by governmental entities and available to the public shall be maintained in a manner that represents the minimal impact to the environment, relative to other reasonable alternatives, and shall be exempted from the following restrictions: (1) Sandblankets be no more than 50 feet in width and extend no more than 10 feet waterward of the ordinary high water mark. See paragraph 9(b), specifying sandblanket criteria, of this rule; and (2) Sandblankets be installed no more frequently than once every four years and no more than twice at the same project location. See paragraph 9(c), limiting repeated sandblanket installations, of this rule.

		9	<p>SANDBLANKET REQUIRED EXHIBITS. The following exhibits shall accompany the sandblanket permit application:</p> <p>(a) Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevations must be reduced to NGVD (1929 datum).</p> <p>(b) Profile, cross sections and/or topographic contours showing existing and proposed elevations and proposed side slopes in the work area. (Topographic contours should be at intervals not greater than 1.0 foot).</p> <p>(c) A completed Sandblanket Permit Application form, available from the District.</p>
8	<p>STANDARDS FOR OTHER INSTALLATIONS.</p> <p>a. A boat ramp or other boating access structure is permitted on the applicant's demonstration that there is no feasible alternative for access, and that impacts on aquatic habitat and water quality are minimized.</p> <p>b. The width of disturbance for a boat ramp or other boating access structure is limited to 15 feet, and the volume of material limited to 80 cubic yards below the ordinary high water level, except for a commercial marina or public launch facility when it is demonstrated that a larger dimension is necessary. Any material above the ordinary high water level is considered floodplain fill.</p> <p>c. If pouring a boat ramp in place, the permittee must conform to containment, dewatering, and other measures as the District requires to protect water quality.</p> <p>d. The material to construct an installation must be clean, inert and create no risk of adverse environmental impact. The design must be sound and pose no safety or navigational hazard.</p>	11	<p>CRITERIA FOR OTHER SHORELINE IMPROVEMENTS. Other shoreline improvements, such as boat ramps, shall comply with accepted engineering principles as follows:</p> <p>(a) Boat ramps and other similar improvements shall not be allowed in riparian shoreline areas unless the applicant demonstrates that no feasible alternative riparian access is available, that aquatic habitat and water quality impacts are minimized;</p> <p>(b) Installation of boat ramps shall involve placement of no more than 50 cubic yards of inert and clean material, and the maximum width of shoreline disturbance shall be 15 feet unless the facility is a commercial marina or public launch facility that requires a greater width; and</p> <p>(c) Materials utilized for construction of boat ramps or other similar improvements shall be safe and cause no adverse environmental impacts; the improvement shall be of sound design and construction so that the improvement is reasonably expected to be safe and effective.</p>
9	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances rule is a condition of permit issuance.</p>	2a	[See section 2a above]

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 9. Dredging**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

Key:
Blue & bold font - Key language that represents a substantive change from current language
Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping)
<i>Italics</i> - removed text

Revised Section	Revised Language	Current Section	Current Language
1	POLICY. It is the policy of the Board of Managers to: a. Protect surface waters, backwater areas and wetlands next to or hydrologically connected to lakes to maintain stable shoreline; support vegetative diversity and integrity; and protect riparian and aquatic habitat; b. Minimize impacts from dredging in biologically productive and ecologically sensitive littoral zones to protect water quality and prevent invasive species proliferation; c. Recognize riparian rights of property owners while protecting public water resources. d. Preserve the natural appearance of shoreline areas.	1	POLICY. It is the policy of the Board of Managers to: (a) Preserve the natural appearance of shoreline areas; recreational, wildlife and fisheries resources of surface waters; surface water quality and the ecological integrity of the riparian environment; (b) Protect backwater areas and wetlands adjacent to or hydrologically connected to area lakes, with particular protection of backwater areas and wetlands that have been identified by the District as particularly sensitive to stormwater impacts or as providing valuable vegetative diversity or integrity; wildlife or fish habitat; shoreline protection; or exceptional aesthetic, educational, recreational or cultural features; (c) Minimize impacts from dredging to the biologically productive and ecologically sensitive littoral zone of water bodies to prevent the deterioration of water quality, the proliferation of invasive species and increased seepage; (d) Balance the riparian rights of property owners with the public interest in protecting water resources.
2a	APPLICABILITY. A District permit is required to dredge within the bed, or below the top of bank, of a public water or public waters wetland, except that a permit is not required to install, maintain or remove a utility structure when that work is subject to a permit under the Waterbody Crossings & Structures Rule.	2	REGULATIONS. No person shall dredge in the beds, banks or shores of any public water in the District without first securing a permit from the District, and posting a bond or letter of credit pursuant to the Financial Assurance Rule.
2b	A permit applicant is responsible to obtain all required approvals from other public agencies including the Minnesota Department of Natural Resources (DNR) and, for dredging in Lake Minnetonka, the Lake Minnetonka Conservation District (LCMD). An applicant who has obtained a District permit under this rule may qualify to operate under DNR General Permit No. 2001-6009, in place of an individual DNR permit.	3c	Before District review, all dredging proposals that involve navigational access to docking structures shall be submitted to and approved by, in the case of public waters, the Minnesota Department of Natural Resources and, in the case of Lake Minnetonka, the Lake Minnetonka Conservation District. Proposed dredging in Lake Minnetonka is subject to the dredging standards of the DNR, MCWD and LMCD Dredging Joint Policy Statement (April 1993).
2c	Navigational dredging in Lake Minnetonka must meet the standards of the DNR, MCWD and LMCD Dredging Joint Policy Statement (April 1993), which is an attachment to this rule and incorporated by reference. Certain terms of the Joint Policy Statement are incorporated directly into this rule, below.	4e	Dredging presenting the conditions identified in 4(d)(1-3) above may be permitted where the project complies with applicable DNR rules.
2d	Maintenance dredging by a public agency may qualify for an expedited general permit pursuant to section 7 of this rule.	N/A	N/A
3a	PERMITTED DREDGING. Dredging is permitted only for one of the following purposes: 1. To maintain an existing public or private channel to dimensions the District previously has approved; 2. To implement or maintain a legal right of navigational access; 3. To remove sediment that is a source of nutrients or other pollutants;	4a	CRITERIA. Dredging shall be permitted only: (1) To maintain, or remove sediment from, an existing public or private channel, not exceeding the original or originally permitted extent of dredging, whichever is less, and subject to such further limitations on method or extent of dredging as this rule may provide;

	4. To improve the wildlife or fisheries resources of surface waters; or 5. By a public entity, for a public purpose.		(2) To implement or maintain an existing legal right of navigational access; (3) To remove sediment to eliminate a source of nutrients, pollutants, or contaminants; (4) To improve the public recreational, wildlife, or fisheries resources of surface waters; or (5) For actions by public entities for public purposes.
3b	In evaluating an application under paragraph 3.a.1, the District will review evidence of historic dredging, including how recently the original dredging or subsequent maintenance occurred and the extent of recent navigational use.	4b	In evaluating an application to dredge to maintain or remove sediment from an existing public or private channel, the significance of historic dredging will depend on how recently the original dredging or subsequent maintenance to sustain use took place, the extent of recent use, and the amount and significance of evidence supporting use for the proposed purpose.
3c	In evaluating an application under paragraph 3.a.2., the District will apply principles of riparian rights to determine whether the navigation sought is reasonable. This includes considering: 1. The ecological sensitivity of the affected waterbody or wetland; 2. The size, draft, speed, motorized status and other characteristics of watercraft historically used or proposed to be used in the area to be dredged; 3. The size and restrictiveness of existing channels and bridge openings that may affect navigation; and 4. The availability of other means to gain access, such as extending docks; purchasing, renting or leasing shore moorings; or anchoring watercraft away from shore moorings.	4c	In evaluating an application to dredge to create or maintain navigational access, the District will determine whether the navigation sought is reasonable under the circumstances, considering: (1) The ecological sensitivity or preserve status of any potentially affected water body or wetland; (2) The size, draft, speed, motorized status and other characteristics of watercraft historically used or proposed to be used in the area proposed to be dredged; (3) The size, draft, speed, motorized status and other characteristics of watercraft typically moored and used within 200 yards of the area proposed to be dredged; (4) The size and restrictiveness of existing channels and bridge openings that may affect navigation; and (5) The availability of alternative means of gaining access, such as extending docks; purchasing, renting or leasing shore moorings; or anchoring watercraft away from shore moorings.
3d	The applicant may not dredge: 1. To offset floodplain fill, or otherwise above the ordinary high-water level or into the upland next to the waterbody; 2. Where the dredging would create a channel to connect backwater areas for navigation, or extend riparian rights to non-riparian land; 3. Where the dredging would alter the natural shoreline or streambank; 4. Where the dredging may affect the hydrology of an adjacent resource; or 5. Where the dredged area contains a slope steeper than 3:1 (H:V) in a marina or channel, or 10:1 (H:V) near residential lakeshore.	4d (1-5)	No dredging shall be permitted: (1) Above the ordinary high water level or into the upland adjacent to the lake or watercourse; (2) That would enlarge a natural watercourse landward or that would create a channel to connect adjacent backwater areas for navigational purposes; (3) Where the dredging will alter the natural shoreline of a lake; (4) Where the dredging might cause increased seepage or result in subsurface drainage; (5) Where any portion of the dredged area contains any slope steeper than 3:1 (H:V) in a marina or channel, or steeper than 10:1 (H:V) for an area adjoining residential lakeshore;
4a	STANDARDS. The application must consider other ways to achieve the purpose of dredging such as dock extension, aquatic nuisance plant removal without dredging, less extensive dredging in another area of the public water, or agreement with a neighboring property. The applicant must show that the proposed dredging is the means to resolve their need that has least impact. Impact to a Preserve wetland or other ecologically sensitive area must be minimal. For the purpose of this paragraph, "impact" means effect on water quality, ecology, groundwater protection, flood management and all other beneficial uses of water resources as described at Minnesota Statutes §103B.201.	3d	The proposed project shall represent the "minimal impact" solution to a specific need with respect to all other reasonable alternatives such as dock extensions, aquatic nuisance plant removal without dredging, beach sandblankets, excavation above the bed of public water, less extensive dredging in another area of the public water, or management of an alternative water body for the intended purpose. For a project determined by the District to present potential impacts to Preserve Wetlands and other ecologically sensitive areas, the applicant must demonstrate that the proposed project is likely to cause minimal ecological impact and that it presents the least ecological impact of all reasonable alternatives.
		4d(6)	No dredging shall be permitted: (6) Where adverse ecological impact to a preserve wetland or other ecologically sensitive area cannot be minimized.
4b	If dredging is to remove sediment that was transported into the waterbody, the plan must remedy the cause of sediment transport for the future, to the extent the applicant reasonably can do so.	3b	Where there is an identifiable source of sediment under the control of the applicant, the plan shall include remedial action to minimize deposition of sediment into a waterbody or off-site.
4c	Dredging is limited to the minimum dimensions necessary to achieve the purpose. Maximum dredging width for navigation is 15 feet, unless a wider channel better protects water resources. Maximum dredging depth for navigation is as follows, except that the District may consider deeper dredging in accordance with paragraph 3.b, above: 1. Within Lake Minnetonka: 924.6' for individual channels and mooring spaces, 923.6' for multiple	3e	The dredging shall be limited to the minimum dimensions necessary for achieving the stated purpose.

	<p>user channels and mooring/maneuvering areas, and 921.6' for public channels maintained by Hennepin County.</p> <p>2. Within other waterbodies: Four feet below the ordinary high water elevation.</p>		
4d	Side slopes within dredged areas are to be 3:1 (horizontal to vertical), unless the District finds that substrate conditions warrant a steeper or gentler slope.		[See section 4d(5)]
4e	Dredging may not occur between April 1st and June 30th, except that the District may allow dredging in a public water wetland during this period if the applicant is able to show that fish spawning does not occur in the wetland.	4d(7)	No dredging in a public water shall occur between April 1st and June 30th. No dredging in any other waterbody shall occur between April 1st and June 30th unless the applicant demonstrates that fish spawning does not occur in the waterbody.
4f	The application must identify a spoil disposal site. The site must not be below the OHW of a public water or wetland, or in a floodplain absent flood storage replacement. The applicant must place and stabilize all spoils so that they will not be transported by reasonably expected high water or runoff.	3a	<p>GENERAL STANDARDS.</p> <p>A spoil disposal site must be identified and found not to be below the OHW of a public water or public water wetland, wetland subject to the Wetland Conservation Act of 1991, or floodplain and not prone to erosion.</p>
5	<p>HYDRAULIC DREDGING.</p> <p>In addition to the standards of section 4, above, hydraulic dredging is subject to the following standards:</p> <p>a. Dikes must be of compacted earth and not exceed 5.5 feet in height at any point, with a minimum four-foot- wide top and side slopes not steeper than 2:1 (H:V). An alternative design is permitted but must be certified by a professional engineer registered in Minnesota. If the spoil containment has no outlet, it must have four times the calculated volume of solid material to be removed, and a minimum freeboard of one foot above the projected water surface elevation.</p> <p>b. The applicant must provide a copy of: (i) the Minnesota Pollution Control Agency (MPCA) spoils disposal permit or notification, and (ii) any sediment analysis performed.</p> <p>c. The applicant must submit a restoration plan that shows how they will retain sediments on site during operations, and how they will restore and revegetate the site. The plan must show final grades.</p> <p>d. Discharge from a spoil containment must meet MPCA turbidity and total suspended solids standards applicable to the receiving water. The applicant must monitor at least weekly and promptly forward results to the District.</p>	3f	<p>If the dredging will be accomplished by means of hydraulic dredging the following additional standards will apply:</p> <p>(1) The spoil disposal site shall have a minimum storage capacity equal to four times the calculated volume of solid material to be removed, and a minimum free board between the top of the projected water surface elevation and the top of the dike of one foot, if no outlet from the spoil disposal site is proposed.</p> <p>(2) The construction of the spoil containment site shall be with earthen dikes. No such dike shall exceed 5.5 feet in height at any point. Dikes shall have a minimum 4 foot wide top and side slopes of 2:1 (H:V) or flatter. The dikes shall be adequately compacted by traversing with appropriate equipment during construction.</p> <p>(3) Proposed embankments which differ from the standard in 3(f)(2) shall comply with generally accepted engineering principles and be designed and certified by a professional engineer registered in the State of Minnesota.</p> <p>(4) Spoil containment sites of limited storage volume which propose a discharge back into a receiving water body through a control structure shall meet applicable State water quality guidelines for the receiving water body. Weekly monitoring of the instantaneous discharge shall be performed and paid for by the applicant. The results shall be promptly forwarded to the District Engineer for comparison to state water quality standards for turbidity and total suspended solids.</p> <p>(5) A restoration plan prepared by a qualified individual shall show proposed methods of retaining waterborne sediments on site during the period of operation. The plan shall show final grades and how the site will be restored, covered and/or vegetated after construction. Sites with high erosion potential characterized by steep slopes or erodible soils may require a cash deposit or surety to ensure performance and any necessary remedial actions.</p>
6	<p>SUBMITTALS.</p> <p>The following must accompany the permit application. On written approval from District staff, the applicant may omit or modify specific items.</p> <p>a. Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevation must be reduced to NGVD (1929 datum).</p> <p>b. Profile, cross sections and topographic contours showing existing and proposed elevation and side slopes in the work area. Topographic contours must be at intervals of no more than 1.0 foot.</p> <p>c. For hydraulic dredging:</p> <ol style="list-style-type: none"> 1. Cross section of the proposed dike. 2. Stage/storage volume relationship for the proposed spoil containment. 	5	<p>REQUIRED EXHIBITS. The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11"x17".</p> <p>(a) Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevations must be reduced to NGVD (1929 datum).</p> <p>(b) Profile, cross sections and/or topographic contours showing existing and proposed elevations and proposed side slopes in the work area. (Topographic contours should be at intervals not greater than 1.0 foot.)</p> <p>(c) In the case of projects using hydraulic means of sediment removal and on-site spoil containment the applicant shall supply:</p> <ol style="list-style-type: none"> (1) Cross section of the proposed dike.

	<p>3. Detail of any proposed outlet structure, with size, description and invert elevation.</p> <p>4. Stage/discharge relationship for any proposed outlet structure from the spoil containment.</p> <p>5. Site plan with the locations of any proposed outlet structure and emergency overflow from the spoil containment.</p> <p>d. Site plan with the proposed location of floating silt curtains.</p> <p>e. Support data:</p> <ol style="list-style-type: none"> 1. Description and volume computation of material to be removed. 2. Description of equipment to be used. 3. Construction schedule. 4. Location map of spoil containment. 5. Erosion control plan for containment. 6. Restoration plan for any proposed permanent on-site spoil containment with final grades, removal of control structure, and a description of site restoration and revegetation. 		<p>(2) Stage/storage volume relationship for the proposed spoil containment area.</p> <p>(3) Detail of any proposed outlet structure, showing size, description and invert elevation.</p> <p>(4) Stage/discharge relationship for any proposed outlet structure from the spoil containment area.</p> <p>(5) Site plan showing the locations of any proposed outlet structure and emergency overflow from the spoil containment area.</p> <p>(d) Site plan showing the proposed location of floating silt curtains.</p> <p>(e) Support data:</p> <ol style="list-style-type: none"> (1) Description and volume computation of material to be removed. (2) Description of equipment to be used. (3) Construction schedule. (4) Location map of spoil containment area. (5) Erosion control plan for containment area.
7	<p>GENERAL PERMIT.</p> <p>a. A public applicant may obtain a general permit to remove non-native sediments at a stormwater conveyance outfall into a public water or public water wetland. In place of the submittals listed in section 6, above, the applicant must submit the following:</p> <ol style="list-style-type: none"> 1. Location of dredging and estimated volume of dredged material. 2. Basis to determine dredging depth, in the form of approved plans or post-dredge elevation data from prior dredging, core samples establishing the native bed elevation, or a narrative describing other method to determine dredging depth. <p>b. An application under this section is not subject to section 6 or 8 of the District's procedural Requirements Rule. When the District has confirmed in writing receipt of the applicant's submittal, the general permit is deemed granted and dredging may occur as described.</p> <p>c. A permittee operating under a general permit must conduct activity in accordance with the following terms:</p> <ol style="list-style-type: none"> 1. The permittee may remove only sediment identified as non-native material accumulated due to stormwater runoff or erosion. 2. Dredging may not materially change the elevation or contour of the bed of the affected waterbody. 3. Silt curtain must be used to contain sediment. 4. Disturbed bank or upland, including vegetation, must be restored to its prior condition. 	6	<p>FAST-TRACK PERMIT.</p> <p>A fast-track permit may be issued by District staff for the removal of accumulated sediment caused by a stormwater outlet. The application otherwise must comply with all provisions of this rule. In addition to the requirements of sections 3, General Standards and 5, Required Exhibits of this rule, the following criteria shall be met:</p> <ol style="list-style-type: none"> (a) Authorization shall apply only to removal of sediment identified as non-native material accumulated due to stormwater runoff or erosion. (b) Dredging shall not materially change the elevation or contour of the bed of the affected basin.
8	<p>FAST-TRACK PERMIT.</p> <p>a. An applicant dredging to maintain an existing navigational channel or access may obtain an expedited permit. In place of the submittals listed in section 6, above, the applicant must submit prior District-approved plans establishing channel dimensions, along with an erosion control and restoration plan. The application is not subject to section 6 or 8 of the District's Procedural Requirements Rule.</p> <p>b. The District may withhold fast-track approval if an application raises considerations that, in the judgment of District staff, should be addressed through ordinary permit review.</p>	N/A	N/A
9	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances Rule is a condition of permit issuance.</p>	2	[See section 2 above]

Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 10. Illicit Discharge

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	<p>POLICY.</p> <p>a. The District manages several pipe or channel stormwater conveyance systems within its boundaries. These systems are termed municipal separate storm sewer systems (MS4s) under the federal Clean Water Act. As an MS4 operator, the District regulates connections to, and discharges of pollutants to, its MS4 systems.</p> <p>b. The District's MS4s are identified in Addendum A to this rule. This rule applies only within those areas of the watershed that drain to the District's MS4s, as delineated on Addendum A. The boundaries shown on Addendum A will be determined more precisely, as necessary, on the basis of local conveyance connections and flow conditions.</p>	1	<p>POLICY.</p> <p>In fulfillment, in part, of its obligations as a municipal separate storm sewer system (MS4) owner and operator under the Clean Water Act, the District regulates illicit connections and discharges of pollutants to its MS4 system and watercourses in the watershed.</p>
2	<p>DEFINITIONS. As used in this rule, these terms have the following meanings:</p> <p>a. "Direct Connection" is: (i) a physical connection to an enclosed MS4 conveyance; or (ii) a conduit or similar point-source structure that outlets into or adjacent to an open MS4 conveyance, by which the discharge is introduced into the MS4.</p> <p>b. "Illicit Discharge" is a discharge, other than Stormwater or a Non-Regulated Discharge, into an MS4.</p> <p>c. "Indirect Connection" is a discharge outside of a closed structure, onto the ground or a surface, whereby through action of gravity, or of runoff under foreseeable conditions of rainfall or snowmelt, the discharge reasonably may be expected to enter an MS4 directly, or by means of a public stormwater conveyance.</p> <p>d. "Non-Regulated Discharge" is one of the following:</p> <ol style="list-style-type: none"> 1. Flushing of a water line or another potable water source; landscape irrigation; diverted stream flow; rising ground water; ground water infiltration into a storm drain; uncontaminated groundwater; foundation or footing drains (not including active groundwater dewatering systems); crawl space pump discharge; air conditioning condensation; springs; non-commercial vehicle washing; natural riparian habitat or wetland flows; dechlorinated swimming pool discharge; and street wash water; 2. Discharge pursuant to an NPDES permit; 3. Discharge resulting from firefighting activity, or that the District, in writing, specifically has exempted as necessary to protect public health and safety; 4. Dye testing, with prior written notice to the District; <p>5. A discharge associated only with a residential property use.</p> <p>e. "Stormwater" is stormwater runoff, snow melt runoff, and surface runoff and drainage.</p>	5	<p>EXCEPTIONS.</p> <p>(a) Discharges from the following sources are exempt from the prohibitions in this rule: flushing of a water line or another potable water source, landscape irrigation, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, dechlorinated swimming pools and street wash water.</p> <p>(b) Discharges subject to specific exemption in writing from the District as necessary to protect public health and safety.</p> <p>(c) Dye testing is an allowable discharge, but requires a verbal notification to the District prior to the time of the test.</p> <p>(d) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.</p>

3	<p>REGULATION.</p> <p>a. Illicit Discharges are prohibited.</p> <p>b. A Direct Connection that inlets directly to an MS4 inside a closed structure is prohibited, unless it is constructed so that the discharge consists entirely of a Non-Regulated Discharge. The property owner or operator is responsible to determine whether any drain, fixture or other point of discharge within a structure is prohibited under this paragraph, and if so to discontinue the connection or outlet. The owner or operator must keep a record of this determination, which the District may inspect on request.</p> <p>c. An Indirect Connection that inlets directly to an MS4 outside of a closed structure is permitted pursuant to owner or operator notice and District written approval. As a condition of approval, the District may require that the owner or operator maintain structural and non-structural practices to limit the risk of Illicit Discharge. A Direct Connection constructed so that the discharge consists entirely of a Non-Regulated Discharge is not subject to this paragraph.</p> <p>d. An owner or operator may maintain an Indirect Connection without notice to the District or District approval. However, on a determination by the District Board of Managers, after an opportunity to be heard, that an existing or proposed use of the property presents a risk of Illicit Discharge, it may require that the owner or operator maintain structural and non-structural practices to limit that risk.</p> <p>e. The prohibitions and restrictions of this section apply to new and existing Direct and Indirect Connections, including those made before this rule was adopted, and regardless of whether a connection was permitted under applicable law at the time of its construction.</p>	2	<p>REGULATION.</p> <p>(a) Permit required. A stormwater management plan must be submitted to and a permit obtained from the District for a new direct connection or for the replacement of an existing connection to the District's MS4.</p> <p>(b) Illicit connections prohibited. The construction, use, maintenance or continued existence of illicit connections to the storm drain system without a District permit is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to adoption of this rule, regardless of whether the connection was permissible under law applicable or prevailing at the time of connection.</p> <p>(1) A person is considered to be in violation of this rule if the person connects a line conveying sewage to the District's MS4 or allows such a connection to continue.</p> <p>(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by a political subdivision will be located by the owner of the property on receipt of Notice of Violation from the District.</p> <p>(c) Illegal discharges prohibited. No one may throw, drain or otherwise discharge or permit or cause others to throw, drain or otherwise discharge any pollutants to the storm drain system or watercourses, including but not limited to pollutants that will cause or contribute to a violation of applicable water-quality standards.</p>
N/A	N/A	3a-d	<p>CRITERIA.</p> <p><i>(a) Connection to the District's MS4 System.</i></p> <p><i>(1) New direct connections and replacement of existing connections will be completed using a method that is approved by the District.</i></p> <p><i>2) Peak flow rate, the total volume of flow and the timing of the flow for new connections must not cause new or exacerbate existing water conveyance problems in the District's MS4 system. Enlargement of existing connections is considered a new connection.</i></p> <p><i>(b) Illicit connections. Connections to the District's MS4 found to be in violation of this rule are found to be illicit connections, and must be disconnected and, if necessary, redirected to an approved onsite wastewater management system or a sanitary sewer system. This requirement notwithstanding, a property owner required by the operation of this rule to disconnect from the District MS4 retains sole responsibility for compliance with all regulatory and other requirements applicable to an alternative discharge-management system.</i></p> <p><i>(c) Suspension of MS4 Access.</i></p> <p><i>(1) Suspension due to illicit discharges in emergency situations. The District may, without prior notice, suspend discharge to its MS4 when necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment or to the health or welfare of persons, or to the District's MS4 or waters of the state.</i></p> <p><i>(2) Suspension due to the detection of illicit discharge. Any person discharging to the District's MS4 in violation of this rule may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The District will notify a violator of the proposed termination of its MS4 access. The violator may petition the District for a reconsideration and hearing. A person commits an offense subject to enforcement if the person reinstates MS4 access to premises terminated pursuant to this paragraph without a permit from the District.</i></p> <p><i>(d) Monitoring of Discharges.</i></p> <p><i>(1) Applicability. This subsection applies to all facilities that have stormwater discharges associated with industrial or construction activity.</i></p>

			<p><i>(2) Access to Facilities.</i></p> <p><i>i. The District will be permitted to enter and inspect facilities subject to this rule as may be necessary to determine compliance with this rule. The discharger will make the necessary arrangements to allow access to representatives of the District.</i></p> <p><i>ii. Facility operators will allow the District ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a National Pollution Discharge Elimination System (NPDES) stormwater permit.</i></p> <p><i>iii. If the District has been refused access to any part of the premises from which stormwater is discharged, the District may seek issuance of a search warrant from any court of competent jurisdiction.</i></p>
4	<p>RESPONSE.</p> <p>An owner or operator of a property where an Illicit Discharge has occurred promptly will take all feasible actions to minimize the discharge into the downgradient MS4, and notify the District in writing. The owner or operator will be responsible for costs incurred by the District to limit the impact of an Illicit Discharge on the MS4, on any downgradient waterbody, and on any beneficial public use thereof.</p>	<p>3e</p> <p>Requirement to prevent, control and reduce stormwater pollutants through the use of best management practices.</p> <p>The owner or operator of a commercial or industrial facility will provide, at its sole expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses through the use of structural and non-structural BMPs. The owner of a property that is or may be the source of an illicit discharge may be required by the District to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the District's MS4.</p>	
		<p>3g</p> <p>Notification of Spills.</p> <p>Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which result or may result in illegal discharges or discharge of pollutants to stormwater, the storm drain system or waters of the state, said person will take all necessary steps to ensure the containment and cleanup of such release. In the event of a release of hazardous materials, said person will immediately notify emergency response agencies of the release. In the event of a release of nonhazardous materials, said person will notify the District in person or by phone or email no later than the next business day following discovery of the release.</p>	
N/A	N/A	<p>3f</p> <p><i>Watercourse Protection. No one may pollute or contaminate a watercourse in the Minnehaha Creek watershed. An owner of real property riparian to a watercourse in the Minnehaha Creek watershed will maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.</i></p>	
N/A	N/A	<p>3h</p> <p><i>Enforcement. In addition to pursuing enforcement actions as provided in the District Enforcement Rule, the District may utilize the following measures to enforce the provisions of this rule:</i></p> <p><i>(1) Notice of violation. Whenever the District finds that a person has violated a prohibition or failed to meet a requirement of this rule, the District may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:</i></p> <p><i>i. The performance of monitoring, analysis and/or reporting;</i></p> <p><i>ii. The elimination of illicit connections or discharges;</i></p> <p><i>iii. That violating discharges, practices or operations will cease and desist;</i></p> <p><i>iv. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;</i></p> <p><i>v. Payment of District costs of administrative and remediation;</i></p> <p><i>vi. The implementation of source control or treatment BMPs.</i></p> <p><i>(2) Enforcement Measures. If a violation is not corrected pursuant to the Notice of Violation and subsequent District order, the District may seek enforcement of the rule requirements and/or order through criminal prosecution, injunction, action to compel performance, restoration, abatement, and other appropriate action. The District may avail itself of any and all measures necessary to abate the violation and/or restore the property. It is unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the District or its agents to enter upon the premises for the purposes set forth herein.</i></p>	

			<i>(3) Cost of Abatement. The District may assess costs of abatement or restoration against the property at which the abatement or restoration was required.</i>
5	<p>SUBMITTALS.</p> <p>The following exhibits must accompany a notice under paragraph 3.c, above:</p> <p>a. Property lines and delineation of lands identifying ownership and easements.</p> <p>b. Proposed and existing stormwater facilities' location, alignment and elevation.</p> <p>c. Identification of existing and proposed site contour elevations with at least a 2-foot contour interval.</p> <p>d. Construction plans and specifications of the proposed connection, including design details, connection method, and timing of connection.</p> <p>e. Stormwater runoff volume and rate analysis for the one or two-, 10-, and 100-year critical events, existing and proposed conditions.</p>	4	<p>EXHIBITS.</p> <p>The following exhibits must accompany an application for a permit under this rule. One set full size; one set reduced to 11 inches by 17 inches; and a copy of all submittals in electronic Adobe Acrobat (.pdf) format.</p> <p>(a) Property lines and delineation of lands identifying ownership and easements.</p> <p>(b) Proposed and existing stormwater facilities' location, alignment and elevation.</p> <p>(c) Identification of existing and proposed site contour elevations with at least a 2-foot contour interval.</p> <p>(d) Construction plans and specifications of the proposed connection, including design details, connection method, and timing of connection.</p> <p>(e) Stormwater runoff volume and rate analysis for the 2-, 10-, and 100-year critical events, existing and proposed conditions.</p>

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 11. Appropriations**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text
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Revised Section	Revised Language	Current Section	Current Language
1	POLICY. To fulfill the mandate of Minnesota Statutes section 103B.211, subdivision 4, the Board of Managers regulates appropriations from certain public waters within Hennepin County.	1	POLICY. In fulfillment of the mandate of Minnesota Statutes section 103B.211, subdivision 4, the Board of Managers regulates the appropriations of public waters within Hennepin County.
2	REGULATION. a. This rule applies to surface water appropriations from the following: 1. A public waters basin or public waters wetland less than 500 acres in area that is wholly within Hennepin County, excluding any basin or wetland with a navigable connection to Lake Minnetonka; 2. A public waters watercourse with a drainage area of less than 50 square miles. b. A permit is required to appropriate up to 10,000 gallons per day and 1,000,000 gallons per year for a non-essential use, as defined as Minnesota Statutes section 103G.291. c. An applicant is deemed to possess a general permit authorizing the appropriation on District receipt of a completed notice of appropriation in the form maintained by the District.	2	REGULATION. A permit from the District is required to appropriate up to 10,000 gallons per day and up to 1,000,000 gallons per year of surface water for a nonessential use from: (a) A public water basin or public waters wetland within the portion of the District within Hennepin County that is less than 500 acres in surface size and does not have a navigable connection to Lake Minnetonka; or (b) A protected watercourse within the portion of the District within Hennepin County that has a drainage area of less than 50 square miles. An individual permit from the District is not required if the information required under section 3 of this rule is provided. An appropriation under this rule is subject to the following conditions. An appropriation of public water under this rule: (a) Must not lower the water level in the basin or watercourse to an extent that would deprive the public and riparian property owners of reasonable use of and access to the water; (b) Must be reasonable and practical with regard to alternative sources of water or methods available – including use of water appropriated during high flows and levels and stored for later use and the use of ground water – to attain the appropriate objective; (c) Must utilize water storage and reuse, and conservation practices; (d) May not cause a negative impact to the water resource; (e) May be subject to restriction, at any time, to meet in-stream flow needs or protect basin water levels.
3	CONDITIONS. The District may remove a permit or limit an appropriation if it finds any of the following: a. The appropriation may adversely affect the water resource, or deprive the public and riparian property owners of reasonable use of and access to the waterbody; b. The purpose of the appropriation may be achieved by another reasonable and practical method, including water storage and reuse of another conservation practice. The District may restrict the appropriation at any time, with due notice, to meet in-stream flow needs or protect basin water level.		
N/A	[See proposed section 2c.]	3	REQUIRED EXHIBITS. To qualify for the general permit established by this rule, a party must submit the following information:

			(a) Address of the property from which the appropriation will be made; (b) Applicant email address; (c) Purpose of the requested appropriation; (d) Source of water.
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**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 12. Financial Assurances**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

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Revised Section	Revised Language	Current Section	Current Language
1	<p>POLICY. It is the policy of the Board of Managers to: (a) conserve the water resources of the District by assuring compliance with the District’s rules in the performance of activities within the watershed; and (b) use financial assurances supplied by permittees to limit the District’s use of general taxpayer funds to monitor land disturbing activity and provide for compliance with District rules and permits.</p>	1	<p>POLICY. It is the policy of the Board of Managers to: (a) conserve the water resources of the District by assuring compliance with the District’s rules in the performance of activities within the watershed; and (b) require a financial assurance to be submitted with a permit application, conditioned on adequate performance of the authorized activities and compliance with District rules as an effective means to conserve the water resources of the District.</p>
2	<p>FINANCIAL ASSURANCE REQUIREMENT. a. The District may require a financial assurance instrument (performance bond, letter of credit or cash escrow deposit) as a condition of issuance of a permit under the District rules. b. A financial assurance is required of any agency of the United States or of any governmental unit or political subdivision of the State of Minnesota.</p>	2	<p>FINANCIAL ASSURANCE REQUIREMENT. (a) A financial assurance instrument (performance bond, letter of credit, cash escrow deposit or other assurance) may be required as a condition of issuance of a permit under the District rules. (b) A financial assurance will not be required of any agency of the United States or of any governmental unit or political subdivision of the state of Minnesota.</p>
3	<p>FINANCIAL ASSURANCE CRITERIA. The required financial assurance amount will be set by the Board of Managers from time to time, by resolution. (The current financial assurance schedule may be obtained from the District office or website: www.minnehahacreek.org.) a. The financial assurance amount will be set to ensure against potential liabilities to the District, including but not limited to: 1. Application review, field inspection, monitoring, consultant services and related costs authorized under Minnesota Statutes §103D.345; 2. The cost to implement and maintain protective measures required by the permit, and otherwise to fulfill permit terms; and 3. The cost to remedy damage from permit noncompliance or for which the permittee otherwise is responsible. b. The financial assurance instrument must be in a form acceptable to the District. A commercial assurance must be issued by a surety licensed to issue such assurances in Minnesota. (Templates may be obtained from the District office or website, www.minnehahacreek.org.) c. The financial assurance must be issued in favor of the District and conditioned on the permittee’s performance of the activities authorized in compliance with the terms and conditions of the permit and all applicable laws, including the District rules, and payment when due of applicable fees or other charges. If the District makes a claim against a financial assurance, the District may require that the permittee restore the full amount within 45 days.</p>	3	<p>FINANCIAL ASSURANCE CRITERIA. The required amount and duration of financial assurances will be set by the Board of Managers by resolution and subject to periodic review and revision in consideration of the following criteria, which apply to all financial assurances required by the District rules. (The current schedule of financial assurance amounts and durations may be obtained from the District office or website: www.minnehahacreek.org.) (a) Required amounts and durations of financial assurances will be set to ensure against potential liabilities to the District, including but not limited to: (1) Application, field inspection, monitoring, consultant services and related fees authorized under Minn. Stat. § 103D.345; (2) The cost of implementing and maintaining protective measures required by the permit; and (3) The cost of remedying damage resulting from permit noncompliance or for which the permittee otherwise is responsible. (b) The financial assurance instrument shall be in a form acceptable to the District. A commercial assurance must be issued by a surety licensed and doing business in Minnesota. (Templates may be obtained from the District office or website, www.minnehahacreek.org.) (c) The financial assurance shall be issued in favor of the District and conditioned upon the applicant’s performance of the activities authorized in the permit in compliance with the terms and conditions of the relevant permit(s) and all applicable laws, including the District rules, and payment when due of any fees or other charges authorized by law, including the District rules. The financial assurance shall state that in the event the conditions of the financial assurance are not met, the District may make a claim against it. In the</p>

	<p>d. The financial assurance instrument will state that it will not be canceled without at least thirty (30) days prior written notice to the District by the surety.</p> <p>e. Financial assurance submittal is the responsibility of the permittee; however, the surety principal may be the permittee or the entity undertaking the authorized activity on the permittee's behalf.</p> <p>f. When the permittee provides a cash escrow to fulfill the financial assurance requirement, it will be accompanied by an executed escrow agreement in a form acceptable to the District. (A template agreement may be obtained from the District office or website, www.minnehahacreek.org.)</p>		<p>event that the District makes a claim against a financial assurance, the District may require the full amount to be restored within 45 days.</p> <p>(d) The financial assurance instrument shall contain a provision stating that it will not be canceled without at least thirty (30) days prior written notice to the District by the surety.</p> <p>(e) Financial assurances shall be required of and submitted by the permit applicant, but the surety principal may be the landowner or the individual or entity undertaking the proposed activity.</p> <p>(f) When a cash escrow is to be provided to fulfill District financial assurance requirements, the permittee/escrow provider will be required as a condition of permit issuance, transfer or renewal to enter into a cash escrow agreement with the District. Permit approval may be revoked for failure to comply with this requirement.</p>
4	<p>FINANCIAL ASSURANCE RELEASE.</p> <p>a. On permittee's written notification of project completion, the District may inspect the project. If the authorized activity has been completed in accordance with the terms of the permit and District rules and there is no outstanding balance owed to the District for unpaid permit fees or costs incurred, the District will release the financial assurance. Completion of the authorized activity includes, but is not limited to, site stabilization to prevent erosion and sedimentation and, as applicable, stormwater management features constructed or installed and functioning as designed. If the District does not inspect and determine compliance within 45 days of District receipt of notification, the financial assurance will be deemed released, except that the District, by written notice to the permittee, may postpone the inspection period until seasonal conditions are suitable for inspection.</p> <p>b. Notwithstanding paragraph 4(a), the District will retain a multi-project financial assurance until all activities being performed under that assurance have been completed or the permittee has provided a substitute assurance.</p> <p>c. The District may reduce an outstanding financial assurance amount if, in its judgment, the entire amount is no longer required in accordance with paragraph 3(a), above.</p>	4	<p>FINANCIAL ASSURANCE RELEASE.</p> <p>(a) For a financial assurance covering a single project, on written notification of project completion, the District may inspect the project. If the project has been completed in accordance with the terms of the permit and District rules and there is no outstanding balance owed to the District for unpaid permit fees, the District will release the financial assurance. Final inspection compliance includes, but is not limited to, confirmation that the site has been vegetated and stabilized to prevent erosion and sedimentation in accordance with District rules and stormwater management features have been constructed or installed and are functioning as designed. If the District does not inspect the project and make a determination of the project's compliance with the above criteria within 45 days of District receipt of written notification of project completion, the financial assurance will become immediately eligible for release.</p> <p>(1) The District may return a portion of a financial assurance submitted to assure performance if the District finds that the entire amount is no longer required to ensure compliance with the permit conditions and District rules. Specific District rules may include additional criteria under which partial return of a performance assurance may be authorized.</p> <p>(b) A financial assurance submitted to satisfy the financial assurance requirement for more than one permit will be released by the District on written request of the principal if the conditions listed in either of the following paragraphs are met:</p> <p>(1) Pursuant to an inspection by the District of the final project covered by the assurance, the District determines that the project has been completed in accordance with the terms of the permit and District rules and there is no outstanding balance owed to the District for unpaid permit fees. If the District does not inspect the project and make a determination of the project's compliance with the above criteria within 45 days of District receipt of written notification of final project completion, the financial assurance will be immediately eligible for release.</p> <p>(2) The applicant submits a new financial assurance in a form and amount satisfactory to the District.</p>

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 13. Fees**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	<p>FINDINGS.</p> <p>a. Public awareness of and compliance with the permitting process will be served by a policy of charging a minimal permit application fee. Encouraging applicants to seek permits for potential projects reduces public inspection and enforcement costs.</p> <p>b. Large-scale development projects and activities in sensitive locations should be inspected by District staff to provide the Board sufficient information to evaluate compliance with District rules and applicable law.</p> <p>c. From time to time persons perform work requiring a District permit, but for which the District has not issued a permit, and persons perform work in violation of an issued District permit. The Board finds that District engineering, inspection and analysis costs in such cases exceed those where the applicant has complied with District requirements. The Board further concludes that watershed property owners subject to the District’s annual tax levy should not pay costs incurred because of a failure to meet District requirements. Therefore, the Board adopts a rule charging fees to the responsible persons in such cases.</p>	1	<p>FINDINGS.</p> <p>The Board of Managers finds that:</p> <p>(a) public awareness of and compliance with the permitting process will be served by a policy of charging a minimal permit application fee. By encouraging applicants to seek permits for potential projects, the public benefits by reduced inspection and enforcement costs;</p> <p>(b) it is in the public interest that large-scale development projects and activities in sensitive locations be inspected by District staff to provide the Board of Managers sufficient information to evaluate compliance with District rules and applicable law; and</p> <p>(c) from time to time persons perform work requiring a permit from the District without a permit, and persons perform work in violation of an issued District permit. The Board finds that its costs of engineering, inspection and analysis in such cases exceed those where the applicant has complied with District requirements. The Board further concludes that watershed property owners subject to the District’s annual tax levy should not pay costs incurred because of a failure to meet District requirements. Therefore, the Board adopts a rule charging fees to the responsible persons in such cases.</p>
2	<p>FEES.</p> <p>a. The District will charge an applicant an initial permit processing fee in accordance with a fee schedule set, and revised from time to time, by resolution of the Board of Managers to account for the expected processing and initial inspection cost based on the type and extent of the proposed activity and applicable rule requirements. A permit application is not complete and will not be acted on by the District until the permit processing fee is paid. A current fee schedule is found at the District website at www.minnehahacreek.org.</p> <p>b. Beyond the initial permit processing fee, a permit applicant is responsible for the District’s actual cost to administer and enforce a permit; the actual cost of field inspections or investigations of the area affected by the proposed activity; analysis of the proposed activity; engineering and other technical analysis; legal fees and costs and administrative expenses; and monitoring of permitted activity.</p> <p>c. An applicant or permittee will be invoiced for costs incurred by the District beyond the permit processing fee, as enumerated in this section.</p> <p>d. In accordance with section 5 of the Enforcement Rule, permittees are liable for enforcement costs incurred by the District, including but not limited to the cost to inspect and monitor compliance; fees for engineering and other technical analysis; legal fees and costs; and administrative expenses.</p>	2	<p>FEES.</p> <p>(a) The District will charge applicants an initial permit processing fee in accordance with a schedule set, and revised from time to time, by resolution of the Board of Managers to account for the expected processing and initial inspection costs based on the type and extent of the proposed activities and the applicable rule requirements. A permit application will not be deemed complete and will not be acted on by the District until the permit processing fee is paid. A current fee schedule may be obtained from the District web site at www.minnehahacreek.org.</p> <p>(b) Beyond the initial permit processing fee, permit applicants will be charged the District’s actual costs of administering and enforcing permits, as well as the actual costs of field inspections or investigations of the area affected by a proposed activity, analysis of the proposed activity, and engineering and other technical analysis, legal fees and costs and administrative expenses, as well as any monitoring of permitted activities required.</p> <p>Applicants and permittees will be invoiced for all costs described by this paragraph incurred by the District beyond the permit processing fee.</p> <p>(c) In accordance with section 5 of the Enforcement Rule, permittees will be liable for enforcement costs incurred by the District, including but not limited to the costs of inspection and monitoring of compliance, engineering and other technical analysis, legal fees and costs, and administrative expenses. Applicants and permittees will be invoiced for all costs described by this paragraph incurred by the District.</p>

	e. An invoice issued in accordance with the provisions of this rule must be paid within thirty (30) days of receipt. Failure to pay a District permitting-fees invoice will constitute a failure to comply with District permit-application requirements or a violation of the terms of an issued permit. The Board of Managers may deny a permit application or revoke a permit based on nonpayment of fees.		(d) An invoice issued in accordance with the provisions of this rule must be paid within thirty (30) days from the receipt. Failure to pay a District permitting-fees invoice will constitute a failure to comply with District permit-application requirements or a violation of the terms of an issued permit, and the Board of Managers may deny a permit application or revoke a permit based on nonpayment of fees.
3	RECOVERY OF FEE. The fees provided for in this rule may be recovered by the District by any legal action authorized by law.	3	RECOVERY OF FEE. The fees provided for in this rule may be recovered by the District by any legal action authorized by law.
4	GOVERNMENTAL AGENCIES EXEMPT. No permit fee will be charged to an agency of the United States or any governmental unit in the State of Minnesota.	4	GOVERNMENTAL AGENCIES EXEMPT. No permit fee will be charged to any agency of the United States or any governmental unit in the State of Minnesota.

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 14. Variances and Exceptions**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1	VARIANCES and EXCEPTIONS AUTHORIZED. An applicant may request to be excused from strict compliance with a provision of the District rules. The request must be submitted on a variance or an exception application form maintained by the District. A variance or exception requires a favorable vote of two-thirds of the Board of Managers present and voting.	1	VARIANCES AUTHORIZED. The Board of Managers may hear requests for variances from strict compliance with provisions of the District rules.
		6	SUPERMAJORITY REQUIREMENT. A variance or exception must be approved by a two-thirds majority of managers voting.
2	VARIANCE STANDARD. An applicant for a variance must demonstrate that strict compliance with an identified provision of the District rules is practically difficult, as a result of an unusual feature of the property or its setting. The Board of Managers, in its judgment, will decide whether a practical difficulty has been shown, and whether a variance to relieve this practical difficulty may be granted. The Board’s decision whether to grant a variance will rest on the following: a. the cause of the difficulty, and whether the applicant played a role in creating it; b. whether the proposal reasonably may be modified to avoid the need for a variance, or there otherwise is a practical way to avoid the difficulty; c. the extent to which the applicant seeks to diverge from the rule, and the extent to which the divergence would cause impact to water resources; and d. whether the variance would shift a burden to a neighboring property or to the broader public.	2	STANDARD. To grant a variance, the Board of Managers must determine, based on a showing by the applicant: (a) that because of special conditions inherent to the property, which do not apply generally to other land or structures in the District, strict compliance with a provision of a District rule will cause undue hardship to the applicant or property owner; (b) that the hardship was not created by the landowner, the landowner’s agent or representative, or a contractor. Economic hardship is not grounds for issuing a variance; (c) that granting such variance will not merely serve as a convenience to the applicant, (d) that there is no feasible and prudent alternative to the proposed activity requiring the variance; and (e) that granting the variance will not impair or be contrary to the intent of these rules.
3	EXCEPTION STANDARD. The Board of Managers may grant an exception from a particular water resource standard, specification or management method in the District rules, if it determines that an alternative approach proposed by the applicant would achieve water resource outcomes of the type that the Board intends the standard, specification or method to achieve, and would do so to at least the same degree.	5	EXCEPTIONS. The Board of Managers may grant an exception from a provision of these rules requiring a particular treatment or management method, or setting forth a design specification of such a method, on a determination that the proposed application, with such further conditions as the Board may impose, will achieve a greater degree of water resource protection than would strict compliance with the provision.
4	CONDITIONS. The Board of Managers may place conditions on the granting of a variance or exception as it finds necessary to determine that the standard for the variance or exception has been met.		
5	TERM. A variance or exception has the same term as the underlying permit. Unless it specifically states otherwise, a District action renewing, terminating or transferring a permit has the same effect on an associated variance or exception.	3	TERM. A variance or exception will remain valid only as long as the underlying permit remains valid.
		4	VIOLATION. A violation of any condition of approval of a permit subject to a variance shall constitute grounds for termination of the variance.

Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 15. Enforcement

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Revised Section	Revised Language	Current Section	Current Language
1	INVESTIGATING NONCOMPLIANCE. District staff may enter and inspect a property in the watershed to determine whether a violation of a District rule, permit or order exists.	1	INVESTIGATION OF NONCOMPLIANCE. District staff may enter and inspect a property in the watershed to determine whether a violation of one or more District rules, a permit or an order exists or whether land-disturbing activities have been undertaken in violation of District permitting requirements.
2	ADMINISTRATIVE COMPLIANCE ORDER. On finding a probable violation, the District Administrator may issue a compliance order. A compliance order may require a property owner to apply for an after-the-fact permit and/or effect corrective or restorative actions. A compliance order may require that land-disturbing activities on the property cease.	2	ADMINISTRATIVE COMPLIANCE ORDER. Upon finding a probable violation and failure of the property owner to apply or permittee to take necessary corrective steps, the District may immediately issue a compliance order. A District compliance order may require a property owner to apply for an after-the-fact permit and/or effect corrective or restorative actions. A District compliance order may require that land-disturbing activities on the property cease. (a) The Board of Managers has delegated authority to issue compliance orders to District staff.
3	BOARD HEARING. A compliance order issued by the District Administrator is limited in duration to 20 days . After notice and opportunity to be heard, the Board of Managers may determine that the noncompliance or violation has been corrected and rescind the compliance order. If the Board of Managers determines that the noncompliance or violation has not been corrected, it may extend the compliance order or issue a new order finding a party in violation of the compliance order, or of a District rule, permit or other order, and directing the party to take action to correct or mitigate the effects of the violation or restore the site.	3	BOARD HEARING. A compliance order issued by the District will include notice of or be followed by a notice to the property owner and/or permittee of a hearing before the Board of Managers. After notice and hearing, the Board of Managers may determine that the noncompliance or violation has been corrected and rescind the compliance order. If the Board of Managers determines that the noncompliance or violation has not been corrected, it may extend the compliance order or issue a new order finding a party in violation of a District compliance order, rule, permit or other order and directing the party to take action to correct or mitigate the effects of the violation or restore the site.
4	DISTRICT COURT ACTION. The Board of Managers may seek judicial enforcement of an order or any other remedy available to it under law, including recovery of associated legal costs and fees, through a civil or criminal action pursuant to Minnesota Statutes sections 103D.545 and 103D.551 and any other provisions of law.	4	DISTRICT COURT ACTION. The Board of Managers may seek judicial enforcement of an order and recovery of associated legal costs and fees, as provided by Minnesota Statutes chapter 103D, through a civil or criminal action pursuant to Minnesota Statutes section 103D.545 and 103D.551.
5	LIABILITY FOR ENFORCEMENT COSTS. To the extent provided by law, a property owner or other party that is the subject of District enforcement will be liable for enforcement costs incurred by the District, including but not limited to the costs of inspection and monitoring of compliance, engineering and other technical analysis, legal fees and costs, and administrative expenses.	5	LIABILITY FOR ENFORCEMENT COSTS. The permittee or owner of a property that is the subject of District enforcement efforts will be liable for associated costs incurred by the District, including but not limited to the costs of inspection and monitoring of compliance, engineering and other technical analysis, legal fees and costs, and administrative expenses.